

# Electoral Amendment Act 2002

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**The Parliament of New Zealand enacts as follows:**

**1 Title**

- (1) This Act is the Electoral Amendment Act 2002.
- (2) In this Act, the Electoral Act 1993 is called “the principal Act”.

**Part 1**

**Preliminary provisions**

**2 Commencement**

- (1) Except as provided in subsection (2) and in section 8, this Act comes into force on the day after the date on which it receives the Royal assent.
- (2) Part 2 and Schedule 4 come into force on a date to be appointed by the Governor-General by Order in Council; and 1 or more Orders in Council may be made appointing different dates for different provisions.

**3 Interpretation**

- (1) Section 3(1) of the principal Act is amended by repealing the definitions of **Clerk of the Writs** and **Deputy Returning Officer**.
- (2) Section 3(1) of the principal Act is amended by repealing the definition of **election expenses**, and substituting the following definition:  
“**election expenses**,—
  - “(a) in relation to a candidate at an election, has the meaning given to it in section 213:
  - “(b) in relation to a party that is registered under Part IV, has the meaning given to it in section 214B.”
- (3) Section 3(1) of the principal Act is amended by repealing the definition of **electoral roll**, and substituting the following definition:  
“**electoral roll**, in relation to any district, means, subject to sections 101 to 103, the forms of application for registration kept by the Registrar of persons registered as electors of that district (including a form returned following an inquiry under section 83).”

(4) Section 3(1) of the principal Act is amended by inserting, in their appropriate alphabetical order, the following definitions:

“**anonymous**,—

“(a) in relation to a constituency candidate donation as defined in section 210(9), means a donation that is made in such a way that the candidate does not know who made the donation:

“(b) in relation to a party donation (as that term is defined in section 214F), means a donation that is made in such a way that none of the following knows who made the donation:

“(i) the candidates of the party to which the donation is made:

“(ii) the persons involved in the administration of the affairs of that party

“**current financial member**, in relation to a political party, means a member of the party—

“(a) whose membership of the party resulted from an application made by the member to join the party; and

“(b) who is, under the party’s rules, subject to an obligation to pay to the party a membership fee—

“(i) on becoming a member; and

“(ii) then at specified intervals of not more than 3 years; and

“(c) who has paid to the party every membership fee that has for the time being become payable by the member in accordance with those rules

“**electoral official** means an official appointed in accordance with section 20

“**issuing officer**, in relation to a polling place, means the manager of the polling place or a person authorised, under section 158(3)(a), to issue ballot papers in the polling place

“**manager**, in relation to a polling place, means the person designated, under section 158(2), as the manager of the polling place

“**polling place official** means a person appointed, under section 158(1), as an official for a polling place.”

(5) Section 3(1) of the principal Act is amended by repealing paragraph (a) of the definition of **Maori electoral population**, and substituting the following paragraph:

“(a) by ascertaining a proportion determined by dividing—

- “(i) the total number of persons registered as at the close of the last day of the period specified in the last notice published under section 77(2) as electors of Maori electoral districts, and persons on the dormant rolls for Maori electoral districts; by
  - “(ii) the total number of persons of New Zealand Maori descent registered as at the close of the day referred to in subparagraph (i) as electors of either General electoral districts or Maori electoral districts, and persons on the dormant rolls for Maori electoral districts and General electoral districts; and.”
- (6) Section 3(1) of the principal Act is amended by repealing the definition of **Returning Officer**, and substituting the following definition:

“**Returning Officer** means an electoral official designated under section 20B; and includes a person authorised to exercise or perform the powers, duties, or functions of a Returning Officer.”

- (7) Section 3(1) of the principal Act is amended by repealing the definition of **Speaker**, and substituting the following definition:

“**Speaker** means—

- “(a) the Speaker of the House of Representatives; or
- “(b) if the Speaker of the House of Representatives is (for whatever reason) unable to act, the Deputy Speaker of the House of Representatives; or
- “(c) if neither the Speaker of the House of Representatives nor the Deputy Speaker of the House of Representatives is (for whatever reason) able to act, an Acting Speaker of the House of Representatives who is able to act.”

#### 4 New sections 11A to 11C inserted

The principal Act is amended by inserting, after section 11, the following sections:

##### “11A Appointment of deputies

- “(1) In this section, appointed member means a member of the Electoral Commission who has been appointed under section 8(1)(c) or section 8(1)(d) or section 8(4)(b).

- “(2) An appointed member may appoint any person as the deputy of the member.
- “(3) The member who is the Secretary for Justice may appoint as the deputy of that member an employee of the Ministry of Justice.
- “(4) The member who is the Chief Judge of the Maori Land Court may appoint as the deputy of that member the Deputy Chief Maori Land Court Judge.
- “(5) Every appointment of a deputy—
- “(a) must be in writing; and
  - “(b) must be signed by the member making the appointment.

**“11B Status of deputies**

- “(1) A deputy appointed by a member of the Electoral Commission under section 11A may exercise the powers conferred on that member by this Act during any period when that member is incapacitated by illness, absence from New Zealand, or other sufficient cause from performing the duties of his or her office.
- “(2) The deputy of the member who holds office as the President of the Electoral Commission has, in addition, authority to act as President of the Commission during any period when the President of the Commission is incapacitated by illness, absence from New Zealand, or other sufficient cause from performing the duties of his or her office.
- “(3) A member of the Electoral Commission may, at any time, revoke the appointment of his or her deputy.
- “(4) No act done by a deputy appointed under section 11A in that capacity, and no act done by the Electoral Commission while a deputy is so acting, may in any proceedings be questioned on the ground that the occasion for so acting had not arisen or had ceased.

**“11C Protection from civil liability**

- “(1) This section applies to every member of the Electoral Commission, to every deputy of such a member, and to every officer and employee of the Commission.
- “(2) No civil proceeding may be brought against any person to whom this section applies for anything he or she may do or

report or say in the course of the exercise or intended exercise of his or her duties under this Act unless it is shown that he or she acted in bad faith.”

**5 Sections 16 and 17 repealed**

Sections 16 and 17 of the principal Act are repealed.

**6 New sections 20 to 20D substituted**

- (1) The principal Act is amended by repealing sections 20 and 20A, and substituting the following sections:

**“20 Electoral officials**

There may be appointed under the State Sector Act 1988 as many electoral officials as are required for the conduct of elections under this Act.

**“20A Electoral officials under direction of Chief Electoral Officer**

- “(1) The Chief Electoral Officer may give oral or written directions to all or any electoral officials.
- “(2) Every electoral official must exercise or perform his or her powers, duties, and functions in accordance with any directions given by the Chief Electoral Officer.

**“20B Designation of Returning Officers**

For every election to be held in a district, the Chief Electoral Officer must, by notice in writing, designate an electoral official as the Returning Officer for the district.

**“20C Chief Electoral Officer and Returning Officers may delegate powers**

- “(1) The Chief Electoral Officer and every Returning Officer may each delegate any of his or her respective powers, duties, and functions (other than this power of delegation) to an electoral official.
- “(2) The maker of the delegation—
- “(a) must make the delegation in writing and sign it; and
  - “(b) may make the delegation subject to any conditions or limits or both.

- “(3) The maker of the delegation may revoke at any time, by written notice to the delegate, any delegation made under this section.
- “(4) Every person to whom a power, duty, or function is delegated under this section may exercise or perform the power, duty, or function in the same manner and with the same effect as the maker of the delegation could himself or herself have exercised or performed it.
- “(5) Every person purporting to act under a delegation under this section is, in the absence of proof to the contrary, presumed to be acting in accordance with the terms of the delegation.
- “(6) A delegation under this section does not affect or prevent the exercise or performance of any power, duty, or function of the maker of the delegation.

**“20D State sector agencies to assist with administration of elections**

- “(1) The Chief Electoral Officer may seek assistance from any State sector agency in order to facilitate the effective administration of elections.
- “(2) Any agency approached by the Chief Electoral Officer for assistance must have regard to the public interest in a whole-of-government approach to support the effective administration of elections in considering the assistance it can provide.
- “(3) Any assistance that a State sector agency provides must be provided in a manner that is consistent with the statutory framework establishing that agency.
- “(4) For the purposes of this section, a State sector agency means any part of the **State services** as defined in section 2 of the State Sector Act 1988, any **Crown entity** within the meaning of section 2 of the Public Finance Act 1989, and any **State enterprise** within the meaning of the State-Owned Enterprises Act 1986.”
- (2) Section 7 of the Electoral Amendment Act (No 2) 1995 is consequentially repealed.

**7 Chief Registrar of Electors**

Section 21 of the principal Act is amended by inserting, after subsection (2), the following subsection:

“(2A) Without limiting the duty imposed by subsection (2), the Chief Registrar must take all reasonable steps to ensure the accuracy of information held on the electoral roll.”

## **8 Registered electors may be members, unless disqualified**

(1) Section 47 of the principal Act is amended by repealing subsection (3), and substituting the following subsection:

“(3) Regardless of anything in subsection (1), a person is not qualified to be a candidate or to be elected unless he or she is a New Zealand citizen.”

(2) A member of Parliament elected before the date of the commencement of this section is not disqualified from sitting as a member simply because, after that date, he or she is no longer qualified under section 47(3) of the principal Act to be a candidate or to be elected.

(3) A candidate whose name appears on a party list submitted under section 127 of the principal Act before the date of the commencement of this section is not disqualified from being selected from that party list under section 137 of the principal Act to fill a vacancy simply because, after that date, he or she is no longer qualified under section 47(3) of the principal Act to be a candidate or to be elected.

(4) This section comes into force on 1 February 2003.

## **9 How vacancies created**

(1) Section 55(1) of the principal Act is amended by repealing paragraph (f), and substituting the following paragraph:

“(f) if he or she resigns his or her seat by signing a written notice that is addressed and delivered to the Speaker; or.”

(2) Section 55(1) is amended by repealing paragraph (j).

## **10 Registrar of Court to notify cause of vacancy in certain cases**

Section 57(1) of the principal Act is amended by omitting the words “, or to the Governor-General if there is no Speaker or if the Speaker is absent from New Zealand or if the member so convicted is the Speaker”.

**11 Registrar of Births and Deaths to notify Speaker of death of member**

Section 58(1) of the principal Act is amended by omitting the words “, or to the Governor-General if there is no Speaker or if the Speaker is absent from New Zealand”.

**12 No person to be candidate for more than one district or on more than one list**

Section 59(4) of the principal Act is amended by inserting, after the words “him or her”, the words “or on his or her behalf”.

**13 Application for registration**

(1) Section 63(2) of the principal Act is amended by repealing paragraph (c), and substituting the following paragraphs:

“(c) must—

“(i) set out the name of the party; and

“(ii) if the party wishes to be able to use for the purposes of this Act an abbreviation of its name, set out the name of that abbreviation; and

“(iii) set out the name and address of the applicant and the capacity in which he or she makes the application; and

“(iv) if the applicant is not the secretary of the party, set out the name and address of the secretary of the party; and

“(v) set out the name and address of the person, being a person who is eligible for appointment under section 214D, who is to be appointed as the auditor of the party, and be accompanied by that person’s signed consent to the appointment; and

“(vi) be accompanied by evidence, in a form approved by the Electoral Commission, that the party has at least 500 current financial members who are eligible to enrol as electors; and

“(vii) be accompanied by a declaration, made by the secretary of the party in the manner provided by section 9 of the Oaths and Declarations Act 1957 that the party has at least 500 current financial members who are eligible to enrol as electors; and

“(ca) must be accompanied by a declaration made by the secretary of the party in the manner provided by section 9 of the Oaths



and Declarations Act 1957, which declaration must state that the party intends, at general elections,—

“(i) to submit a list of candidates under section 127; or

“(ii) to have 1 or more constituency candidates stand for the party or for a related political party; or

“(iii) both; and.”

- (2) The secretary of every political party that is registered under Part 4 of the principal Act at the date of the commencement of this section must supply to the Electoral Commission, within 1 month after that date, the name and address of the person who is the party’s auditor, and that person’s signed consent to being named as the party’s auditor.

#### **14 Application for registration of party logo**

- (1) Section 63A(2)(c)(ii) of the principal Act is amended by omitting the word “By”, and substituting the words “by 2 copies of”.

- (2) Section 63A(2) of the principal Act is amended by inserting, after paragraph (d), the following paragraph:

“(da) if the application is made by a political party that is not registered under this Part, must be accompanied by a declaration made by the secretary of the party in the manner provided by section 9 of the Oaths and Declarations Act 1957, which declaration must state that the party intends, at general elections, to have 1 or more constituency candidates stand for the party or for a related political party; and.”

#### **15 Other grounds on which registration may be refused**

Section 66 of the principal Act is amended by repealing subsection (3).

#### **16 Registration**

Section 67(3) of the principal Act is amended by adding the word “; and” and also by adding the following paragraph:

- “(f) to notify the Electoral Commission whenever the party changes the auditor of the party by appointing another person, being a person who is eligible for appointment under section 214D, as the auditor of the party, and to provide the Electoral

Commission with the name and address of that person, and that person's signed consent to the appointment."

#### **17 Cancellation of registration**

(1) Section 70 of the principal Act is amended by inserting, after subsection (1), the following subsection:

"(1A) The provisions of section 64, with any necessary modifications, apply to every request under subsection (1)."

(2) Section 70 of the principal Act is amended by inserting, after subsection (2), the following subsection:

"(2A) For the purposes of exercising the powers conferred on it by subsection (2), the Electoral Commission may require a political party to supply to it a list of the party's current financial members within any reasonable time that the Electoral Commission specifies."

#### **18 Cancellation of registration of party logo**

Section 70A of the principal Act is amended by inserting, after subsection (1), the following subsection:

"(1A) The provisions of section 64, with any necessary modifications, apply to every request under subsection (1)."

#### **19 New sections 71A and 71B inserted**

(1) The principal Act is amended by inserting in Part 4, after section 71, the following sections:

##### **"71A Obligation to provide annual declaration regarding party**

The secretary of any political party registered under this Act must ensure that the Electoral Commission receives by 30 April in each year a declaration made by the secretary in the manner provided by section 9 of the Oaths and Declarations Act 1957, which declaration must—

- "(a) state that the party intends, at general elections,
  - "(i) to submit a list of candidates under section 127; or
  - "(ii) to have 1 or more constituency candidates stand for the party or for a related political party; or
  - "(iii) both; and
- "(b) state whether the party has at least 500 current financial members who are eligible to enrol as electors.

**“71B Obligation to provide copy of party membership rules and candidate selection rules**

- “(1) The secretary of any political party registered under this Act must supply the Electoral Commission with the following:
- “(a) a copy of the rules governing membership of the party:
  - “(b) a copy of the rules governing the selection of persons to represent that party as candidates for election as members of Parliament:
  - “(c) a copy of any changes to the rules referred to in paragraph (a) or paragraph (b).
- “(2) The copies required by subsection (1)(a) and (b) must be supplied within 1 month after notice of the registration of the party is notified in the *Gazette* in accordance with section 67(1)(c).
- “(3) The copies required by subsection (1)(c) must be supplied within 1 month after the date on which the changes to the rules are adopted by the party.
- “(4) Members of the public are entitled to inspect the documents supplied to the Electoral Commission under this section. They may inspect them, without payment, at any time between 9.00 am and 4.00 pm on any day on which the office of the Electoral Commission is open.”
- (2) Regardless of section 71B(2) of the principal Act, the secretary of any political party that is registered under Part 4 of the principal Act at the date of the commencement of this section must supply to the Electoral Commission, within 3 months after that date, the copies referred to in subsection (1)(a) and (b) of that section, and subsection (4) of that section applies accordingly.

## **Part 2**

### **Amendments concerning registration of electors**

#### **20 Periodic exercise of Maori option and determination of Maori population**

Section 77(6) of the principal Act is amended by adding to paragraph (b) the word “; and”, and by adding the following paragraphs:

- “(c) the total number of persons whose names are shown on the dormant rolls maintained under section 109 for the Maori electoral districts; and
- “(d) the total number of persons whose names are shown on the dormant rolls maintained under section 109 for General electoral districts who are recorded as having given written notice that they are persons of New Zealand Maori descent.”

## **21 Exercise of Maori option**

- (1) Section 78(1) of the principal Act is amended by omitting the words “Notwithstanding section 83(6)(b) of this Act”.
- (2) Section 78 of the principal Act is amended by inserting, after subsection (3), the following subsection:
  - “(3A) If a Maori who wishes to exercise the option given by section 76(1) is physically disabled or is outside New Zealand, the form may be signed on his or her behalf—
    - “(a) by a donee of a power of attorney from the person, which donee must indicate on the form that the person is a physically disabled person or is outside New Zealand, as the case may be; or
    - “(b) by a registered elector who signs and returns by direction of the person and who indicates on the form—
      - “(i) that the person is a physically disabled person or is outside New Zealand, as the case may be; and
      - “(ii) that the form is being signed and returned by direction of the person.”
- (3) Section 78 of the principal Act is amended by adding the following subsection:
  - “(11) For the purposes of this section, a person registered as an elector includes a person of or over the age of 17 years who has had an application under section 82(2) to register as an elector accepted as being in order.”

## **22 Compulsory registration of electors**

Section 82(1) of the principal Act is amended by repealing paragraph (b), and substituting the following paragraph:

- “(b) within 1 month after the date on which he or she ceases to be registered as an elector by reason of the inclusion of his or her name on the dormant roll under section 83C; and also.”

**23 New sections 83 to 83D substituted**

The principal Act is amended by repealing section 83, and substituting the following sections:

**“83 Updating of electoral rolls**

- “(1) Every Registrar must, at the times required by or under this section, direct an inquiry to be made concerning the particulars on the roll of every person registered as an elector of the district.
- “(2) An inquiry must be made,—
- “(a) where practicable, within the period of 12 months ending with the day on which a Parliament is due to expire; and
  - “(b) at any other time directed by the Chief Registrar.
- “(3) In any year in which a triennial general election of members of any local authority must be held under the Local Electoral Act 2001, every Registrar of a district that is, in part or in whole, within the local government area of a local authority must direct an inquiry to be made concerning the particulars on the roll of every person who—
- “(a) is registered as an elector of that district; and
  - “(b) appears from those particulars to reside within that local government area.
- “(4) If a roll that is not yet in force has been compiled under section 101(1), the inquiry directed to be made under this section must be in respect of that roll.
- “(5) Every inquiry made under subsection (1) must—
- “(a) be in the prescribed form; and
  - “(b) contain both the particulars on the roll of the elector to whom it is addressed and provision for the elector to make the changes to the information contained in the form; and
  - “(c) require the elector to return the form if any of those particulars have changed or are incorrect.
- “(6) For the purposes of this section,—
- “(a) a **person registered as an elector** includes any person of or over the age of 17 years who has had an application under section 82(2) to register as an elector accepted as being in order; and

- “(b) the particulars contained in the application to register are the particulars on the roll for that person.

**“83A Procedure following inquiry under section 83**

- “(1) If, following an inquiry under section 83, the Registrar receives a form in which an elector notifies the Registrar that the elector has changed his or her place of residence and now resides in another electoral district,—
  - “(a) the Registrar must ensure that the form, or the information contained in the form, is transmitted to the Registrar for the new electoral district; and
  - “(b) the Registrar for the new electoral district must, as if the form were an application for registration, register that elector, in accordance with section 87, on the roll for the district in which the elector resides; and
  - “(c) the form is deemed to be an application for registration for the purposes of section 82; and
  - “(d) the Registrar for the old electoral district must, in accordance with section 98(1)(a), remove from his or her roll the name of the elector.
- “(2) If, following an inquiry under section 83, the Registrar receives a form from an elector that contains a change to any particulars other than a change of place of residence referred to in subsection (1), the Registrar must amend the roll in accordance with the information supplied.
- “(3) If the Registrar does not receive a form from an elector, or receives a form with no changes, that elector remains on the roll and his or her particulars on the roll remain unchanged.
- “(4) Subsections (1), (2), and (4) of section 85 apply, with all necessary modifications, to any form that is intended to be returned, or has been returned, in response to an inquiry under section 83.

**“83B No form of inquiry required if application for registration as elector received**

If the Registrar receives, during an inquiry under section 83(1), or within 28 days before the commencement of an inquiry under that section, a duly completed application for registration as an elector,—

- “(a) that application is deemed to be a completed form for the purposes of section 83; and
- “(b) the Registrar must notify that elector that he or she will not receive a form of inquiry under section 83.

**“83C Elector who cannot be contacted to be included in dormant roll**

- “(1) This section applies if—
  - “(a) the Registrar is notified that an inquiry made under section 83(1) or a form sent under section 78(2) cannot be delivered to the elector to whom it is addressed because the whereabouts of the elector are not known; or
  - “(b) at any other time the elector cannot be contacted at the elector’s address on the roll.
- “(2) If this section applies, the Registrar must—
  - “(a) make any inquiry as to the whereabouts of the elector that the Registrar thinks fit or that the Chief Registrar directs; and
  - “(b) if the Registrar is then unable to contact the elector, the Registrar must remove the name of the elector from the roll and include the name in the dormant roll maintained under section 109.

**“83D Transfer of electors between electorates**

- “(1) This section applies if a Registrar has received advice under section 82(1)(c) or otherwise that an elector has changed his or her place of residence and now resides in an electoral district other than the district in respect of which the elector is registered.
- “(2) If the Registrar who receives the advice referred to in subsection (1) is the Registrar of the electoral district in which the elector now resides (the **new Registrar**), the new Registrar must inform the Registrar of the electoral district in respect of which the elector is registered (the **old Registrar**) of that information.
- “(3) If the old Registrar believes that at least 1 month has elapsed since the change in the elector’s place of residence, the old Registrar must send the elector a request for confirmation of the elector’s new place of residence.

- “(4) A request under subsection (3) must be in the prescribed form and must contain—
- “(a) the particulars of the enrolment of the elector to whom it is addressed; and
  - “(b) the address of the elector’s new place of residence; and
  - “(c) provision for the elector to make changes to the information in paragraph (a) or paragraph (b).
- “(5) An elector who receives a form under this section must, within the time stated by the Registrar, sign the form and return it to the old Registrar.
- “(6) If the old Registrar receives a form returned under subsection (5),—
- “(a) the old Registrar must ensure that the form, or the information contained in the form, is transmitted to the new Registrar; and
  - “(b) the new Registrar must, as if the form were an application for registration, register that elector, in accordance with section 87, on the roll for the district in which the elector resides; and
  - “(c) the form is deemed to be an application for registration for the purposes of section 82; and
  - “(d) the old Registrar must, in accordance with section 98(1)(a), remove from his or her roll the name of the elector.
- “(7) Nothing in this section applies if a form is returned under section 83A(1).”

## **24 Section 84 repealed**

The principal Act is amended by repealing section 84.

## **25 Application for registration**

- (1) Section 85 of the principal Act is amended by repealing subsections (2) to (4), and substituting the following subsections:
- “(2) If a person making an application or declaration in respect of registration as an elector is physically disabled or is outside New Zealand, the application or declaration may be signed on his or her behalf—
- “(a) by a donee of a power of attorney from the person, which donee must indicate on the application or declar-



- ation that the applicant is a physically disabled person or is outside New Zealand, as the case may be; or
- “(b) by a registered elector who signs by direction of the person and who indicates on the application or declaration—
- “(i) that the person is a physically disabled person or is outside New Zealand, as the case may be; and
- “(ii) that the application or declaration is being signed and returned by direction of the applicant or declarant.
- “(3) The application or declaration must state, in respect of the person making the application or declaration,—
- “(a) the person’s surname or family name:
- “(b) the person’s full given or first names:
- “(c) the place of residence in respect of which registration is claimed, which place of residence must be specified in a manner that enables it to be clearly identified:
- “(d) the person’s postal address, if different from the address given under paragraph (c):
- “(e) the person’s occupation (if any):
- “(f) the person’s date of birth:
- “(g) the honorific (if any) by which the person wishes to be addressed:
- “(h) whether or not the person is of New Zealand Maori descent:
- “(i) any other particulars that are prescribed.
- “(4) The Registrar may reject any application or declaration that does not comply with subsection (1) or with any of the provisions of paragraphs (a), (b), (c), (f), and (i) of subsection (3).”
- (2) Section 85(5) of the principal Act is amended by omitting the words “subsection (3)(g) of this section” and substituting the expression “subsection (3)(h).”

## **26 Registration of mentally incapable persons**

Section 86 of the principal Act is amended by repealing subsection (5), and substituting the following subsection:

- “(5) A person described in subsection (2) who registers, as an elector, a person to whom subsection (1) applies may also, on behalf of that person,—

- “(a) sign and return the form for the purposes of section 78(3); or
- “(b) decide whether it is necessary to return a form sent to that person under section 83 and, if necessary, sign and return the form together with any corrections to the information contained in it; or
- “(c) sign and return a form for the purposes of section 83D; or
- “(d) sign and forward a statement for the purposes of section 97(3).”

**27 New section 89 substituted**

The principal Act is amended by repealing section 89, and substituting the following section:

**“89 Notice of registration**

The Registrar must, not later than 14 days after the registration of a person (including registration in accordance with section 83A(1)(b) or section 83D(6)(b) following a transfer from another district), deliver to that person personally, or send to that person by post, notice in writing of the registration.”

**28 New sections 92 to 94A substituted**

- (1) The principal Act is amended by repealing sections 92 to 94, and substituting the following sections and headings:

**“92 Notification of death of registered elector**

- “(1) The Registrar-General of Births and Deaths must, as soon as is reasonably practicable after the registration of the death of any person of or over the age of 17 years, notify the information described in subsection (2) to the Chief Registrar of Electors.
- “(2) The information referred to in subsection (1) is the fact of the death, together with any particulars known to the Registrar-General of Births and Deaths that may be required to enable the Chief Registrar and Chief Electoral Officer—
- “(a) to determine the electoral district in which the deceased person resided; and
  - “(b) to take appropriate steps in relation to the roll and other records.

*“Marriage of registered elector*

**“93 Notification of marriages**

- “(1) This section applies if a person to whom a notice of intended marriage under the Marriage Act 1955 relates—
- “(a) is registered as an elector of any district; or
  - “(b) is a person of or over the age of 17 years who has made an application under section 82(2) of this Act for registration as an elector of any district.
- “(2) The person referred to in subsection (1), or the other party to the intended marriage, must provide to the Registrar (within the meaning of section 2 of the Births, Deaths, and Marriages Registration Act 1995) the information requested by the Chief Registrar for the purposes of this section.
- “(3) The Chief Registrar may approve a form for the purposes of subsection (2).
- “(4) The Registrar (within the meaning of section 2 of the Births, Deaths, and Marriages Registration Act 1995) must transmit the information provided under subsection (2) to the Registrar for the district of which the person is registered as an elector.
- “(5) The Registrar who receives the information provided under subsection (2) must, after the date of the intended marriage, send by post to each of the parties to the intended marriage a notice inquiring whether, as a result of the marriage, any change is required in the name, address, and occupation under which he or she is or is to be registered on the roll.
- “(6) If a person to whom a notice is sent under subsection (5) states that a change is required, the Registrar of Electors must amend the roll in accordance with the particulars supplied.
- “(7) If an amendment to the roll is necessary under subsection (6) and the amendment does not appear on the main or supplementary roll printed for any election, the person is, if otherwise qualified, entitled to vote at the election under his or her former name as it appears on the roll.

*“Change of name of registered elector***“94 Notification of change of name**

- “(1) This section applies if a person registers a change of his or her name under section 21 of the Births, Deaths, and Marriages Registration Act 1995.
- “(2) The Registrar-General must provide to the Chief Registrar the following information for the purposes of determining whether any change is required to the name and address under which that person is registered on the roll:
- “(a) the old name and the new name of the person; and
  - “(b) the person’s date of birth; and
  - “(c) the person’s full residential address.

*“Confirmation of change of name, address, or other particulars***“94A Confirmation of change of name, address, or other particulars**

- “(1) This section applies if the Registrar, in accordance with this Act, amends, in relation to any person whose name appears on the roll, any of the following particulars:
- “(a) the place of residence of the person, following a change of residence within an electoral district; or
  - “(b) the name of the person; or
  - “(c) any other particulars of a kind specified in paragraph (d), (h), or (i) of section 85(3).
- “(2) The Registrar must, not later than 14 days after the roll is amended, deliver to that person personally, or send to that person by post, notice in writing of the amendment of the particulars on the roll.”
- (2) The Births, Deaths, and Marriages Registration Amendment Act 1997 is consequentially amended by repealing so much of the Schedule as relates to section 93(1) of the Electoral Act 1993.

**29 Notice of elector’s objection**

Section 95A(4) of the principal Act is amended by omitting the words “file created”, and substituting the words “roll maintained”.

**30 Registrar's objection**

Section 96(5) of the principal Act is amended by omitting the words "file created", and substituting the words "roll maintained".

**31 Removal of names from roll by Registrar**

- (1) Section 98(1)(c)(i) of the principal Act is amended by omitting the expression "section 83(5) or".
- (2) Section 98(1)(c)(ii) of the principal Act is amended by omitting the expression "section 83(5) or".
- (3) Section 98(1) of the principal Act is amended by repealing paragraph (d), and substituting the following paragraph:  
“(d) the name of every person who, as a result of an inquiry made at that person's address on the roll, the Registrar of Electors has reason to believe has ceased for 1 month or upwards to reside in the district.”

**32 Electoral rolls**

- (1) Section 101(2) of the principal Act is amended by omitting the words "revision of the rolls", and substituting the word "inquiry".
- (2) Section 101(5)(a) of the principal Act is amended by omitting the words "revision of the rolls", and substituting the word "inquiry".
- (3) Section 101 of the principal Act is amended by repealing subsection (6), and substituting the following subsection:  
“(6) Every roll to which subsection (4) applies, as it may be updated from time to time following an inquiry under section 83, continues in force until a new roll for the district is compiled and comes into force.”

**33 Rolls where Parliament dissolved after change of boundaries and before new rolls completed**

Section 103 of the principal Act is amended by repealing subsection (4), and substituting the following subsection:

- “(4) Every electoral roll to which subsection (3) applies, as it may be updated from time to time following an inquiry under sec-

tion 83, continues in force until a new electoral roll for the district is compiled and comes into force.”

**34 New section 109 substituted**

The principal Act is amended by repealing section 109, and substituting the following section:

**“109 Dormant roll**

- “(1) The Registrar must maintain a dormant roll showing the particulars of those persons whose names have been removed from the roll for the district—
- “(a) under section 83C; or
  - “(b) as a result of the removal of the name of that person from the roll under section 95A(4) or section 96(5).
- “(2) The Registrar must remove the name of a person from the dormant roll on the first occurrence of any of the following events:
- “(a) in the case of a person whose name has been removed from the electoral roll under section 83C, when the person registers as an elector of any district; or
  - “(b) in the case of a person whose name has been removed from the electoral roll under section 95A(4) or section 96(5), when the person registers as an elector of any district; or
  - “(c) in the case of a person who dies, when the Registrar is satisfied of the identity of the person and the death has been notified to the Registrar—
    - “(i) by any Registrar of Births and Deaths; or
    - “(ii) by the father, mother, spouse, sister, or brother of the person; or
    - “(iii) by the administrator of the estate of the person; or
  - “(d) the expiration of the period of 3 years beginning with the date on which the person’s name was placed on the dormant roll.
- “(3) The Registrar must keep, for the purposes of the next election to be held in the district to which the dormant roll relates, a copy of the dormant roll as it exists on the day before polling day.
- “(4) The Registrar must from time to time cause to be printed a computer-compiled list showing, in relation to each person

whose name appears on the dormant roll, the person's name and place of residence.

- “(5) The dormant roll as it exists on the day before polling day may be used for the purpose of determining whether any person is qualified, under section 60(c) or (d), to vote at any election held in the district to which the roll relates.”

**35 New sections 111A to 111F inserted**

The principal Act is amended by inserting, after section 111, the following sections:

**“111A Objectives of sections 111B to 111F**

The objectives of sections 111B to 111F are—

- “(a) to enable specified electoral information in relation to any Maori elector, with the consent of that Maori elector, to be used to facilitate the establishment and maintenance of accurate and comprehensive registers of iwi affiliations; and
- “(b) to ensure that registers of iwi affiliations are established and maintained by a body which—
- “(i) is accountable to the organisations to which it is authorised to supply information; and
- “(ii) is financially viable and well managed; and
- “(iii) manages information in compliance with the requirements of this Act and the Privacy Act 1993; and
- “(iv) makes iwi affiliation information available to iwi organisations and other Maori organisations at a reasonable cost; and
- “(v) except as required for the purpose of establishing and maintaining the register or registers of iwi affiliations, does not create or maintain information on whakapapa; and
- “(c) to enable information from a register of iwi affiliations to be supplied to iwi organisations and other Maori organisations for the purposes of those organisations; and
- “(d) to leave unaffected—
- “(i) any right of an iwi organisation or other Maori organisation or court to determine whether any

person claiming affiliation with the organisation is so affiliated; or

- “(ii) any right of a person to claim an affiliation with a particular iwi organisation or other Maori organisation or to approach the iwi organisation or other Maori organisation with which that person claims affiliation.

“**111B Interpretation of terms in sections 111C to 111F**

“ For the purposes of sections 111C to 111F,—

“**designated body** means the person or body of persons from time to time designated under section 111E

“

“**Maori elector** means a person registered as an elector who has given written notice to a Registrar that the person is of Maori descent

“**register of iwi affiliations** means a list or lists of persons of Maori descent and their iwi affiliations, together with the information described in section 111C(2) in respect of those persons.

“**111C Chief Registrar may seek consent of Maori electors to supply of information to designated body**

“(1) The Chief Registrar may seek the consent of any Maori elector to the supply by the Chief Registrar from time to time of the particulars described in subsection (2) to the designated body for the purpose of establishing and maintaining a register or registers of iwi affiliations.

“(2) The particulars referred to in subsection (1) are—

“(a) the elector’s name, including first names, surname, and preferred honorific (if any):

“(b) the elector’s postal address:

“(c) the elector’s date of birth:

“(d) any randomly generated number assigned to that elector by the Chief Registrar.

“(3) The Chief Registrar may ask a Maori elector—

“(a) whether the Maori elector consents to the supply of his or her iwi affiliation information to the designated body



for the purpose of establishing and maintaining a register or registers of iwi affiliations; and

- “(b) if the answer under paragraph (a) is in the affirmative,—
  - “(i) to give his or her iwi affiliation information; and
  - “(ii) if the elector wishes, to specify the iwi organisation or organisations or other Maori organisation or organisations to which the elector’s iwi affiliation information may be supplied by the designated body.

- “(4) Despite subsections (1) and (3), the Chief Registrar must not seek the consent under this section of a person in respect of whom the Chief Registrar has given a direction under section 115.
- “(5) If the Chief Registrar seeks the consent of a person under this section, the Chief Registrar must advise the person of the provisions of section 111D(4) and section 111F(1) to (4).
- “(6) If the Chief Registrar seeks the consent of a person under subsection (1), the Chief Registrar must advise the person that a consent given under that subsection may be withdrawn at any time.
- “(7) The Chief Registrar—
  - “(a) may hold iwi affiliation information obtained in response to a request under subsection (3) only for such time as is reasonable for the purpose of forwarding that information to the designated body; and
  - “(b) must not retain any of that iwi affiliation information.

**“111D Chief Registrar may supply information to designated body**

- “(1) The Chief Registrar may supply the information described in subsection (2) to the designated body if—
  - “(a) the Chief Registrar has obtained the consent of a Maori elector under section 111C(1) (and that consent has not been withdrawn); and
  - “(b) the Chief Registrar has under section 111C(3) obtained the consent of a Maori elector to the supply of the iwi affiliation information of that elector.
- “(2) The information referred to in subsection (1) is—

- “(a) the particulars of the elector described in section 111C(2); and
  - “(b) the elector’s iwi affiliation information; and
  - “(c) if, under section 111C(3)(b)(ii), the elector specified a particular organisation or organisations to which the iwi affiliation information may be supplied, the name of that organisation or those organisations.
- “(3) The Chief Registrar may charge a reasonable fee for the supply of information to the designated body under this section.
- “(4) Information supplied under this section is supplied for the purpose of enabling the designated body to—
- “(a) establish and maintain a register or registers of iwi affiliations; and
  - “(b) supply the information on that register or registers to any organisation to which it is authorised to supply that information under section 111F.
- “(5) Except as required for the purpose described in subsection (4), the designated body must not use the information supplied to it under this section to create or maintain information on the whakapapa of any Maori elector.

**“111E Ministers of Justice and Maori Affairs may designate body to receive information**

- “(1) The Minister of Justice and the Minister of Maori Affairs may, by notice in the *Gazette*, designate any person or body of persons (whether corporate or unincorporate) as suitable to receive the information described in subsection (2) for the purpose of establishing and maintaining a register or registers of iwi affiliations.
- “(2) The information referred to in subsection (1) is—
- “(a) information described in section 111C(2); and
  - “(b) information described in section 111C(3)(b).
- “(3) The Minister of Justice and the Minister of Maori Affairs must not designate a person or body of persons under subsection (1) unless the Ministers are satisfied that—
- “(a) the person or body of persons has adequate procedures in place to ensure that it is accountable to the organ-

- isations to which it is authorised to supply information under section 111F; and
- “(b) the person or body of persons is financially viable and can demonstrate prudent and adequate management policies and practices, including in matters of financial management; and
  - “(c) the person’s or body of persons’ information management policies and practices are adequate to ensure compliance with this Act and the Privacy Act 1993; and
  - “(d) the person or body of persons has the ability to fund the establishment and maintenance of the register of iwi affiliations; and
  - “(e) the person or body of persons meets any other criteria that may be specified in regulations made under section 267(c).
- “(4) The Minister of Justice and the Minister of Maori Affairs may, at any time, by notice in the *Gazette*, revoke a designation made under subsection (1).

**“111F Designated body may supply information from register of iwi affiliations to iwi organisation and other Maori organisation**

- “(1) The designated body may supply the information in relation to a particular Maori elector that is held on a register of iwi affiliations—
- “(a) if the Maori elector has specified a particular organisation or organisations under section 111C(3)(b)(ii), to that organisation or organisations; or
  - “(b) in any other case, to any iwi organisation or organisations or other Maori organisation or organisations that the designated body is satisfied represents the iwi to which the Maori elector claims an affiliation.
- “(2) If the designated body is satisfied that iwi affiliation information given by a Maori elector under section 111C(3)(b)(i) contains a spelling error or other obvious mistake, but the designated body is satisfied that it is clear to which iwi the Maori elector was referring, the designated body may apply subsection (1) as if the elector had specified that iwi.

- “(3) If the designated body is satisfied that the name of an organisation or organisations specified by a Maori elector under section 111C(3)(b)(ii) contains a spelling error or other obvious mistake, but the designated body is satisfied that it is clear to which organisation or organisations the elector was referring, the designated body may apply subsection (1) as if the elector had specified that organisation or organisations.
- “(4) Information supplied under this section is supplied for the purposes of the iwi organisation or other Maori organisation to which it is supplied.
- “(5) Any fee charged by the designated body for the supply of information under this section must be a reasonable fee.”

### **36 Supply of information on age and Maori descent**

- (1) Section 112 of the principal Act is amended by repealing subsection (4), and substituting the following subsection:
- “(4) Every list supplied following a request under subsection (1) may be supplied in the form of a computer-compiled list or in electronic form.”
- (2) Section 112(5) of the principal Act is amended by repealing paragraph (f), and substituting the following paragraph:
- “(f) if the person requesting the list requires the list to be supplied in electronic form, that person supplies to the Chief Registrar a storage medium for that electronic information that complies with the prescribed requirements.”

### **37 Supply of computer-compiled lists and computer tapes to local authorities**

- (1) Section 113 of the principal Act is amended by omitting the heading, and substituting the heading “Supply of computer-compiled lists and electronic storage media to local authorities”.
- (2)
- (3) Section 113 of the principal Act is amended by repealing subsection (4), and substituting the following subsection:
- “(4) Any electronic storage medium supplied by the Chief Registrar must be returned to the Chief Registrar as soon as practicable after use.”

- (4) Section 113 of the principal Act is amended by repealing subsection (7).
- (5) Section 113 of the principal Act is amended by repealing subsection (8), and substituting the following subsection:
- “(8) Regulations made under section 267 may prescribe—
- “(a) fees for the supply of an electronic storage medium by the Chief Registrar in any case; and
  - “(b) fees for providing information under this section on an electronic storage medium in any case to which subsection (1) does not apply.”
- (6) Subsections (9A) and (9C) of section 113 are amended by omitting the words “computer tape, disk, or diskette” in each place where they appear, and substituting in each case the words “electronic storage medium”.

Subsection (2) was repealed, as from 25 December 2002, by section 53(a) Local Electoral Amendment Act 2002 (2002 No 85).

### **38 New section 114 substituted**

The principal Act is amended by repealing section 114, and substituting the following section:

#### **“114 Supply of electoral information to candidates, political parties, and members of Parliament**

- “(1) The Chief Registrar must supply to a person specified in subsection (2), on a request made in accordance with this section by that person,—
- “(a) the information described in subsection (3); and
  - “(b) if the person so requests, the information described in subsection (4).
- “(2) The persons referred to in subsection (1) are—
- “(a) any candidate or any person acting on behalf of a political party who wishes to obtain the information for the purposes of the candidate or the political party:
  - “(b) any candidate or any person acting on behalf of a political party who wishes to obtain the information for the purposes of the candidate or the political party in connection with any local authority elections:
  - “(c) a member of Parliament or person acting on behalf of a member of Parliament who wishes to obtain the information for the purposes of the member of Parliament:

- “(d) any Commissioner or officer of the Electoral Commission for the purposes of assisting the Electoral Commission to exercise its functions under section 5(d):
  - “(e) any other person charged with responsibilities in relation to the conduct of any official publicity or information campaign to be conducted on behalf of the Government of New Zealand and relating to electoral matters or the conduct of any general election or by-election.
- “(3) The information referred to in subsection (1)(a) is—
- “(a) the names, residential addresses, occupations (if any), preferred honorifics (if any), meshblock, and postal addresses of, and any randomly generated number assigned by the Chief Registrar to, any or all of the following persons:
    - “(i) the electors of an electoral district:
    - “(ii) the persons whose names are on the dormant roll for an electoral district:
    - “(iii) the electors of an electoral district who were registered as electors for that district on or after the date fixed for the closing of the main roll for the district pursuant to section 104, or on or after a date nominated by the applicant, that date being not earlier than the date on which the roll was last closed for printing:
    - “(iv) the electors of an electoral district whose names have been removed from the electoral roll for that district on or after a date nominated by the applicant, that date being not earlier than the date on which the roll was last closed for printing; and
  - “(b) if the person to whom the information is being supplied is one described in subsection (2)(b), the electors of a local authority district or subdivision of a local authority district.
- “(4) The information referred to in subsection (1)(b) is,—
- “(a) whether the elector is of Maori descent; or
  - “(b) a list of electors of Maori descent; or
  - “(c) the age group within which the elector appears; or
  - “(d) a list of electors in a particular age group; or
  - “(e) any or all of the above.

- “(5) Information supplied by the Chief Registrar under this section may be supplied—
- “(a) in the form of a computer-compiled list; or
  - “(b) in electronic form, including by the giving of remote access to the information by electronic means.
- “(6) A request for information from a person described in subsection (2)(a), (b), or (c) must,—
- “(a) if the information is sought in electronic form supplied on an electronic storage medium, be accompanied by a storage medium for that electronic information; and
  - “(b) be accompanied by the prescribed fee; and
  - “(c) be accompanied by a statement, on a form to be provided by the Chief Registrar, by the person seeking the information that the information is required for purposes permitted by this section and will not be used for any purpose other than those for which it is supplied.
- “(7) A request for information from a person described in subsection (2)(d) or (e) must, if the information is sought in electronic form supplied on an electronic storage medium, be accompanied by a storage medium for that electronic information.
- “(8) Regulations made under section 267 may prescribe fees, or a scale of fees, for the supply of computer-compiled lists and electronic storage media by the Chief Registrar to any person under this section, and for the giving of remote access to the information by electronic means.
- “(9) For the purposes of this section and section 112(1)(a),—
- “**age group** means, in relation to electors, those whose birthdays fall within a period of 5 years (being the first half or the second half of a decade)
  - “**decade** means a period of 10 years that begins with a year that is divisible, without remainder, by 10.”

**39 New section 114A inserted**

The principal Act is amended by inserting, after section 114, the following section:

**“114A General provision concerning supply of information by Chief Registrar in electronic form**

If the Chief Registrar is required in accordance with this Act to supply information in electronic form, the Chief Registrar is only required to supply that information in a form, or using a medium, that is compatible with computer systems being used by the Chief Registrar at the time.”

**40 Offences relating to use of electoral information**

Section 116 of the principal Act is amended by repealing subsection (1), and substituting the following subsection:

- “(1) Every person commits an offence who knowingly and wilfully supplies, receives, or uses information supplied in electronic form, or derived from information supplied in electronic form, under section 112, 113, or 114 for a purpose other than a purpose authorised by those sections.”

**41 New section 117A substituted**

The principal Act is amended by inserting, after section 117, the following section:

**“117A Offence relating to misuse of electoral information supplied under section 111D**

- “(1) Every person commits an offence who knowingly and wilfully supplies, receives, or uses information of a kind described in section 111C(2) that is provided by, or derived from information provided by, the Chief Registrar under section 111D, for any purpose other than a purpose authorised by section 111D(4) or section 111F(4).
- “(2) Every person who commits an offence against this section is liable on summary conviction,—
- “(a) in the case of information supplied, received, or used for a commercial purpose, to a fine not exceeding \$50,000; or
- “(b) in any other case, to a fine not exceeding \$10,000.”

**42 Copies of rolls for Returning Officer**

Section 123 of the principal Act is amended by adding, as subsection (2), the following subsection:



“(2) Despite section 106, the Chief Registrar may, with the agreement of the Chief Electoral Officer, direct Registrars to modify the form of any rolls supplied under this section if that is necessary to facilitate the use of technology for the scrutiny of the rolls under this Act.”

**43 New section 124 substituted**

The principal Act is amended by repealing section 124, and substituting the following section:

**“124 Power to destroy records**

“(1) Subject to subsection (3), the Registrar may destroy any of the records described in subsection (2) if—

“(a) the Registrar considers that the records are no longer required; and

“(b) 2 general elections have taken place since the records were made.

“(2) The records referred to in subsection (1) are records held by the Registrar, being—

“(a) applications for registration as electors; and

“(b) forms returned following an inquiry under section 83; and

“(c) records forming part of the dormant roll maintained under section 109(1).

“(3) Nothing in this section authorises any person to destroy any records if he or she has reason to believe that those records are relevant to an election petition or that the time for bringing an election petition to which those records may be relevant has not expired.”

### **Part 3**

#### **Amendments concerning elections**

**44 New section 125 substituted**

The principal Act is amended by repealing sections 125 and 126, and substituting the following section:

**“125 Writ for general election**

Whenever Parliament is dissolved or expires, the Governor-General must, not later than 7 days after the dissolution or expiration, issue a writ in form 3 to the Chief Electoral Officer

requiring the Chief Electoral Officer to make all necessary arrangements for the conduct of a general election.”

#### **45 Election of list candidates**

(1) Section 127 of the principal Act is amended by repealing subsections (3) and (3A), and substituting the following subsections:

“(3) Every list submitted under this section, and the declaration required by subsection (3A),—

“(a) must be submitted to the Chief Electoral Officer not later than noon on the date specified in the writ for the election of constituency candidates as the latest date for the nomination of constituency candidates; and

“(b) may be submitted by hand, post, or facsimile transmission.

“(3A) Every list submitted under this section must be accompanied by a declaration, made by the secretary of the party in the manner provided by section 9 of the Oaths and Declarations Act 1957, that must—

“(a) declare that the secretary is satisfied that each person named on the list submitted under this section is qualified under this Act to be a candidate; and

“(b) state whether the party is a party in respect of which there are 1 or more component parties; and

“(c) if the party has 1 or more component parties, state the name of each component party.”

(2) Section 127 of the principal Act is amended by repealing subsection (5), and substituting the following subsection:

“(5) Every form of consent submitted under this section must be in form 5, and may be submitted by hand, post, or facsimile transmission.”

(3) Section 127 of the principal Act is amended by repealing subsection (8), and substituting the following subsection:

“(8) Every logo submitted under this section—

“(a) must be submitted to the Chief Electoral Officer not later than noon on the date specified in the writ for the election of constituency candidates as the latest date for the nomination of constituency candidates; and

“(b) may be submitted by hand, post, or facsimile transmission.”

**46 New section 127A inserted**

The principal Act is amended by inserting, after section 127, the following section:

**“127A Deposit by party secretary**

- “(1) If a secretary of a political party submits a list under section 127, he or she must lodge with the Chief Electoral Officer, no later than noon on nomination day, a deposit of \$1,000 (inclusive of goods and services tax).
- “(2) The deposit must be in the form of a bank draft or bank cheque.
- “(3) The deposit is forfeit and must be paid into the Crown Bank Account if the party neither—
- “(a) receives in total at least 0.5% of the total number of all party votes received by all the parties listed on the part of the ballot paper that relates to the party vote; nor
  - “(b) wins a constituency seat.
- “(4) In every other case the deposit must be returned to the secretary of the party on whose behalf the deposit is paid, but only after the Electoral Commission has received—
- “(a) a duly completed return under section 214C in respect of that party; and
  - “(b) the auditor’s report under section 214E that relates to that return.
- “(5) For the purposes of subsection (3)(b), a party wins a constituency seat if—
- “(a) a constituency candidate for that party has his or her name endorsed on the writ under section 185 as a person declared to be elected as a member of Parliament; or
  - “(b) a constituency candidate for a component party of that party (being a component party that is not listed on the part of the ballot paper that relates to the party vote but is, in accordance with the details held by the Chief Electoral Officer under any of the provisions of sections 127(3A) and 128A, a component party of that party) has his or her name endorsed on a writ under section

185 as a person declared to be elected as a member of Parliament.”

**47 Acceptance or rejection of lists by Chief Electoral Officer**

Section 128 of the principal Act is amended by repealing subsection (1), and substituting the following subsection:

- “(1) The Chief Electoral Officer must reject a list submitted under section 127—
- “(a) if the list is not submitted by a political party registered under Part IV; or
  - “(b) if the list is not lodged with the Chief Electoral Officer by noon on nomination day; or
  - “(c) if the list does not contain the name of at least 1 candidate; or
  - “(d) if the list is not accompanied by the declaration required by section 127(3A); or
  - “(e) if the deposit required by section 127A is not paid by noon on nomination day.”

**48 Withdrawal of list of candidates**

- (1) Section 128C(2) of the principal Act is amended by omitting the word “writs”, and substituting the word “writ”.
- (2) Section 128C of the principal Act is amended by inserting, after subsection (2), the following subsection:

“(2A) If a list of candidates is withdrawn under subsection (1), the deposit paid under section 127A must be returned to the party secretary, unless the party secretary submits another list of candidates in accordance with section 127.”

**49 New section 129 substituted**

The principal Act is amended by repealing sections 129 and 130, and substituting the following section:

**“129 By-elections for members representing electoral districts**

- “(1) If the Speaker is satisfied that the seat of a member elected to represent an electoral district has become vacant, the Speaker must, without delay, publish a notice of the vacancy and its cause in the *Gazette*.

- “(2) The Governor-General must, within 21 days after the date of a notice published in accordance with subsection (1), issue to the Chief Electoral Officer a writ in form 6 requiring the Chief Electoral Officer to make all necessary arrangements for the conduct of a by-election to fill the vacancy.
- “(3) In any case in which it appears to the Governor-General to be necessary for special reasons, the Governor-General may, by Order in Council, authorise the postponement of the issue of a writ for a by-election until a day stated in the Order in Council, being a day not later than 42 days after the date on which the notice was published in accordance with subsection (1).
- “(4) This section does not apply to a vacancy that occurs in the period between a dissolution or expiration of Parliament and the close of polling day at the next general election.”

**50 Section 132 repealed**

Section 132 of the principal Act is repealed.

**51 New section 134 substituted**

The principal Act is amended by repealing sections 134 and 135, and substituting the following section:

**“134 Supply of vacancy of seat of member elected from party list**

- “(1) If the Speaker is satisfied that the seat of a member elected as a consequence of inclusion of the member’s name on a list submitted under section 127 has become vacant, the Speaker must, without delay, publish a notice of the vacancy and its cause in the *Gazette*.
- “(2) The Governor-General must, as soon as practicable after the date of a notice published in accordance with subsection (1), issue to the Chief Electoral Officer a warrant in form 7 directing the Chief Electoral Officer to proceed forthwith to supply the vacancy.
- “(3) This section does not apply to a vacancy that occurs in the period between a dissolution or expiration of Parliament and the close of polling day at the next general election.”

**52 Method of supplying vacancy**

- (1) Section 137(1) of the principal Act is amended by omitting the words “or section 135 of this Act”.
- (2) Section 137 of the principal Act is amended by adding to subsection (4) and to subsection (5), in each case after the words “to be elected”, the words “by notifying the person’s election in the *Gazette*”.
- (3) Section 137 of the principal Act is amended by adding the following subsection:  
“(7) Whenever subsection (6) applies, the Chief Electoral Officer must publish in the *Gazette* a notice stating that the vacancy cannot be filled.”

**53 Contents of writ**

- (1) Section 139(1) of the principal Act is amended by omitting the words “the election of a member of Parliament for an electoral district”, and substituting the words “a general election or a by-election”.
- (2) Section 139 of the principal Act is amended by repealing subsection (3).
- (3) Section 139 of the principal Act is amended by omitting from subsections (4) and (5) the words “section 153(8) of this Act”, and substituting the expression “section 153E(2)”.

**54 New sections 140 to 142 substituted**

The principal Act is amended by repealing sections 140 to 142, and substituting the following sections:

**“140 Chief Registrar and Electoral Commission to be notified of writ**

Immediately after receiving a writ for an election to be held in any district, the Chief Electoral Officer must notify the Chief Registrar and the Electoral Commission of the issue of the writ.

**“141 Returning Officer to be notified of writ**

Immediately after receiving a writ requiring an election to be held in a district, the Chief Electoral Officer must notify the Returning Officer for the district of the following matters:

- “(a) the issue of the writ:
- “(b) the nomination day appointed in the writ:
- “(c) the polling day appointed in the writ.

**“142 Returning Officer to give public notice of polling day, nomination day, and nomination process**

- “(1) Immediately after receiving notification under section 141, the Returning Officer must give public notice of the following matters:
- “(a) the polling day appointed in the writ:
  - “(b) the nomination day appointed in the writ:
  - “(c) the requirements for submitting nominations of candidates.
- “(2) Every notice given under subsection (1) must be in a form approved by the Chief Electoral Officer.”

**55 Nominations of candidates for electoral districts**

- (1) Section 143 of the principal Act is amended by repealing subsection (1), and substituting the following subsection:
- “(1) Any person qualified under this Act may, with his or her consent, be nominated as a constituency candidate for election for any electoral district, by not fewer than 2 registered electors of that district, by a nomination paper on a form provided by the Chief Electoral Officer.”
- (2) Section 143 of the principal Act is amended by repealing subsection (3A), and substituting the following subsection:
- “(3A) If a nomination paper is lodged with the Returning Officer under subsection (1) in relation to a candidate for a political party, and the political party has a logo registered under section 67A, then in the following cases a copy of the logo may be submitted to the Returning Officer for inclusion on the ballot paper in accordance with section 150(13):
- “(a) in the case of a general election,—
    - “(i) if the political party is not registered under Part IV; or
    - “(ii) if the political party is registered under Part IV, but is not submitting a party list under section 127:

“(b) in the case of a by-election, whether the political party is registered under Part IV or not.”

**56 Deposit by candidate**

Section 144 of the principal Act is amended by repealing subsection (3), and substituting the following subsections:

- “(3) The deposit of an unsuccessful candidate is forfeit and must be paid into the Crown Bank Account if the candidate receives in total less than 5% of the total number of votes received by constituency candidates in the district.
- “(4) In every other case, the deposit of a constituency candidate must be returned to the person who paid it, but only after the Chief Electoral Officer has received a duly completed return under section 210 in respect of that candidate.”

**57 New heading and sections 146A to 146L inserted**

The principal Act is amended by inserting, after section 146, the following heading and sections:

*“Bulk nomination of candidates by registered political parties*

**“146A Purpose of sections 146B to 146L**

Sections 146B to 146L provide an alternative to the procedures set out in sections 143 to 146 by which people can be nominated as candidates for election for electoral districts.

**“146B Notice of intention to lodge bulk nomination**

- “(1) If, at any general election, a political party that is registered under Part IV intends to lodge a bulk nomination schedule of candidates for election for electoral districts, the secretary of that party must notify that intention to the Chief Electoral Officer.
- “(2) A notification under subsection (1)—
- “(a) must be given not later than 1 working day after writ day for the general election; and
- “(b) must be on a form provided by the Chief Electoral Officer; and
- “(c) may be given by hand, post, or facsimile transmission.



- “(3) The secretary of a party may, at any time before lodging a bulk nomination schedule, withdraw a notification under subsection (1) by notifying the withdrawal to the Chief Electoral Officer.
- “(4) A withdrawal under subsection (3)—
  - “(a) must be on a form provided by the Chief Electoral Officer; and
  - “(b) may be given by hand, post, or facsimile transmission.

**“146C Effect of notification of intention to lodge bulk nomination on nominations under section 143**

- “(1) If the secretary of a political party notifies the party’s intention to the Chief Electoral Officer under section 146B(1), that notification remains in force for the purposes of the general election unless—
  - “(a) the notification is withdrawn under section 146B(3); or
  - “(b) any bulk nomination schedule lodged by the secretary of that party is rejected under section 146G; or
  - “(c) the secretary of that party withdraws, under section 146I, a bulk nomination schedule previously lodged by the secretary without providing either of the following:
    - “(i) an express statement on the form on which the withdrawal is made that the party intends to lodge another bulk nomination schedule; or
    - “(ii) another bulk nomination schedule in accordance with section 146D.
- “(2) While a notification of a party’s intention under section 146B remains in force for the purposes of a general election,—
  - “(a) no Returning Officer may accept a nomination made under section 143 in respect of a candidate for that political party; and
  - “(b) if a Returning Officer has already accepted a nomination made under section 143 in respect of a candidate for that political party, that nomination is of no effect and is to be treated as if it had been withdrawn under section 146.

**“146D Bulk nomination of constituency candidates**

- “(1) At any general election, the secretary of a political party that is registered under Part IV may, in accordance with this section, nominate as candidates for election for electoral districts

persons who are qualified under this Act and who consent to be nominated.

- “(2) The secretary of a party may nominate its candidates under this section by lodging, with the Chief Electoral Officer, a single bulk nomination schedule on a form provided by the Chief Electoral Officer.
- “(3) A bulk nomination schedule—
  - “(a) may be lodged by hand, post, or facsimile transmission; and
  - “(b) must be lodged with the Chief Electoral Officer not later than noon on the day before nomination day.
- “(4) The Chief Electoral Officer must give a written receipt for every bulk nomination schedule that he or she accepts.

**“146E Bulk nomination schedule**

- “(1) The following requirements apply in relation to a bulk nomination schedule:
  - “(a) the schedule must specify the electoral districts for which candidates are nominated in the schedule:
  - “(b) the schedule must state, in relation to each such electoral district,—
    - “(i) the full name of the constituency candidate; and
    - “(ii) if the candidate’s full name is not to be used on the ballot paper, the name or names to be used, which must be short enough to fit on the ballot paper.
- “(2) Every bulk nomination schedule must contain a declaration, made by the secretary of the party in the manner provided by section 9 of the Oaths and Declarations Act 1957, that the secretary is satisfied that each constituency candidate nominated in the schedule is qualified under this Act to be a constituency candidate.
- “(3) The secretary of the political party must lodge with the bulk nomination schedule, in relation to each constituency candidate nominated in the schedule, a statement on a form provided by the Chief Electoral Officer, signed by the constituency candidate and signifying his or her consent to the nomination.

- “(4) If the secretary of a political party lodges a bulk nomination schedule and the political party has a logo registered under section 67A, but the political party is not submitting a party list under section 127, then a copy of the logo may be lodged with the Chief Electoral Officer for inclusion on the ballot paper in accordance with section 150(13).
- “(5) Every logo lodged under subsection (4)—
- “(a) may be lodged by hand, post, or facsimile transmission; and
  - “(b) must be lodged with the Chief Electoral Officer not later than noon on nomination day.

**“146F Deposit payable in respect of bulk nomination schedule**

- “(1) If a secretary of a party lodges a bulk nomination schedule under section 146D, he or she must lodge with the Chief Electoral Officer, by noon on the day before nomination day, a deposit of \$300 (inclusive of goods and services tax) for every constituency candidate nominated in the bulk nomination schedule.
- “(2) The deposit must be in the form of 1 bank draft, or 1 bank cheque, for the total amount payable under subsection (1).
- “(3) If an unsuccessful constituency candidate nominated in a bulk nomination schedule receives in total less than 5% of the total number of votes received by constituency candidates in the district for which the unsuccessful candidate was nominated, the amount of the deposit paid under subsection (1) in respect of that unsuccessful candidate is forfeit and must be paid into the Crown Bank Account.
- “(4) After deducting any amounts forfeit under subsection (3), the Chief Electoral Officer must return the remainder (if any) of the amount paid under subsection (1) to the party secretary, but only if the Chief Electoral Officer has received a return under section 210 in respect of every constituency candidate nominated in the bulk nomination schedule.

**“146G Acceptance or rejection of bulk nomination schedule or nomination of candidate**

- “(1) The Chief Electoral Officer must reject a bulk nomination schedule lodged under section 146D—
- “(a) if the schedule is not lodged by the secretary of a political party registered under Part IV; or
  - “(b) if the intention to lodge the schedule has not been notified under section 146B; or
  - “(c) if the schedule is not lodged with the Chief Electoral Officer by noon on the day before nomination day; or
  - “(d) if the schedule does not contain the declaration required by section 146E(2); or
  - “(e) if the deposit required by section 146F(1) is not paid by noon on the day before nomination day.
- “(2) The Chief Electoral Officer must not accept the nomination of a candidate listed on a bulk nomination schedule in any case where a Returning Officer would be required to reject the nomination of that candidate under section 145(2) if the candidate had been nominated under section 143; and the provisions of subsections (2) to (5) of section 145 apply accordingly with all necessary modifications.
- “(3) The Chief Electoral Officer must reject the nomination of a candidate listed on a bulk nomination schedule if—
- “(a) the candidate is not qualified both to be a candidate and to be elected as a member of Parliament; or
  - “(b) the written notice required by section 146E(3) in relation to that candidate is not lodged with the Chief Electoral Officer by noon on nomination day.
- “(4) In every other case the Chief Electoral Officer must accept the bulk nomination schedule and the nominations made on the schedule.
- “(5) Subsection (4) does not limit the jurisdiction of the Court hearing an election petition.

**“146H Amendment of bulk nomination schedule**

- “(1) If the secretary of a party lodges a bulk nomination schedule with the Chief Electoral Officer by noon on the day before nomination day, the secretary may, at any time before noon on nomination day, provide to the Chief Electoral Officer any

information necessary to remedy any defect or omission in the schedule, or in any document required to be lodged with the schedule.

- “(2) Information may be provided under subsection (1) to the Chief Electoral Officer by hand, post, or facsimile transmission.
- “(3) If the Chief Electoral Officer receives any information under subsection (1),—
  - “(a) the Chief Electoral Officer must, where appropriate, amend the bulk nomination schedule or other document to which the information relates:
  - “(b) the Chief Electoral Officer must take the information into account in determining whether to accept or reject, under section 146G, the bulk nomination schedule, or the nomination of a candidate listed on the schedule.
- “(4) This section does not authorise the secretary of a party to—
  - “(a) substitute a different person as a candidate for election for an electoral district; or
  - “(b) nominate a candidate for election for an electoral district for which no candidate was nominated in the schedule as originally lodged with the Chief Electoral Officer.

**“146I Withdrawal of bulk nomination schedule**

- “(1) A secretary of a party may withdraw a bulk nomination schedule lodged by him or her under section 146D.
- “(2) A bulk nomination schedule may be withdrawn under subsection (1) by notice, on a form provided by the Chief Electoral Officer, signed by the secretary of the party and witnessed by a Justice of the Peace or a solicitor.
- “(3) The withdrawal of a bulk nomination schedule has no effect unless the withdrawal is lodged with the Chief Electoral Officer, by hand, post, or facsimile transmission, by noon on nomination day.
- “(4) If the secretary of a party withdraws a bulk nomination schedule under subsection (1), any notification given by that party under section 146B(1) automatically ceases to be in force, unless—

- “(a) the form on which the withdrawal is made expressly states that the party intends to lodge another bulk nomination schedule; or
  - “(b) at the time of lodging the withdrawal, the party secretary lodges another bulk nomination schedule in accordance with section 146D.
- “(5) If a bulk nomination schedule is withdrawn under subsection (1), the party secretary may lodge another bulk nomination schedule in accordance with section 146D.
- “(6) If a bulk nomination schedule is withdrawn under subsection (1), the deposit paid under section 146F must be returned to the party secretary, unless the party secretary submits another bulk nomination schedule in accordance with section 146D.

**“146J Withdrawal of nomination in bulk nomination schedule**

- “(1) A constituency candidate nominated in a bulk nomination schedule or in accordance with section 146K may withdraw his or her nomination by a notice on a form provided by the Chief Electoral Officer, signed by him or her and witnessed by a Justice of the Peace or a solicitor.
- “(2) No withdrawal of nomination under subsection (1) has any effect unless it is lodged with the Chief Electoral Officer not later than noon on nomination day.
- “(3) If a candidate for election for an electoral district withdraws his or her nomination under subsection (1), the amount of the deposit paid under section 146F(1) in respect of that candidate must be returned to the party secretary, unless another candidate for election for that electoral district is nominated under section 146K.

**“146K Replacement nomination if earlier nomination withdrawn or lapses**

- “(1) If a candidate for election for an electoral district withdraws his or her nomination under section 146J, or the nomination of a constituency candidate nominated in a bulk nomination schedule is required by section 152 or section 152A(3) to be treated as if it had not been made, the secretary of the party

may nominate another candidate for election for that electoral district in the following manner:

- “(a) written notice of the nomination must be lodged with the Chief Electoral Officer, by hand, post, or facsimile transmission, not later than noon on nomination day:
  - “(b) the requirements set out in subsections (1) to (3) of section 146E apply in relation to a notice under this section as if the nomination were made in a bulk nomination schedule:
  - “(c) the secretary of the party must lodge with the Chief Electoral Officer, by noon on nomination day, a deposit (in the form of money, a bank draft, or a bank cheque) of the amount payable under section 146F(1) for a constituency candidate nominated in a bulk nomination schedule, unless the Chief Electoral Officer holds the amount of the deposit paid under section 146F(1) in respect of the candidate whose nomination was withdrawn or (as the case may be) who died or became incapacitated.
- “(2) Sections 146F(3) and (4), 146G, and 146H apply in relation to a nomination lodged under this section as if the nomination had been included in a bulk nomination schedule, except that the references in those sections to the day before nomination day are to be read as references to nomination day.

**“146L Inspection of bulk nomination schedules and consents to nomination**

Any registered elector may inspect the following material at the Chief Electoral Officer’s office without payment at any time when the office is open for the transaction of business:

- “(a) any bulk nomination schedule lodged under this Act:
- “(b) any copy of a consent lodged with a bulk nomination schedule in accordance with section 146E(3):
- “(c) any information provided to the Chief Electoral Officer under section 146H:
- “(d) any nomination lodged under section 146K.”

**58 Advertisement of nomination and polling places**

Section 147 of the principal Act is amended—

- (a) by inserting in subsection (1)(a), after the word “nominated”, the expression “under section 143”:
- (b) by inserting in subsection (2)(b), after the expression “section 143(3A)”, the expression “or section 146E(4)”.

**59 New section 148 substituted**

The principal Act is amended by repealing section 148, and substituting the following section:

**“148 Procedure where election not contested**

“(1) If—

- “(a) only 1 constituency candidate is nominated in a district; or
  - “(b) any constituency candidate who has been nominated duly withdraws his or her nomination and there remains only 1 constituency candidate,—
- the Chief Electoral Officer must, in accordance with section 179(2), declare the constituency candidate to be duly elected.

“(2) The name of the person so elected must be endorsed on the writ by the Chief Electoral Officer, and the writ must be returned to the Clerk of the House of Representatives in accordance with section 185.”

**60 Form of ballot papers**

- (1) Section 150(13)(b) of the principal Act is amended by inserting, after the words “section 143 of this Act”, the words “or in accordance with subsections (4) and (5) of section 146E”.
- (2) Section 150(15) of the principal Act is amended by inserting, after the words “also be printed”, the words “(in a form that is readable either with or without the aid of technology)”.

**61 New heading and new sections 151A, 152 to 152C, and 153 to 153H substituted**

The principal Act is amended by repealing the heading immediately before section 152 and sections 152 and 153, and substituting the following heading and sections:



*“Death or incapacity of candidate*

**“151A Interpretation**

For the purposes of sections 152A to 153H, a candidate is incapacitated if the Returning Officer or, as the case requires, the Chief Electoral Officer is satisfied that, because the candidate is suffering from a serious illness or has sustained a serious injury,—

- “(a) if section 152A applies, the candidate is unable to personally withdraw his or her nomination; and
- “(b) in any case, the candidate, if elected, would be unlikely to be capable of taking the Oath of Allegiance as a member of Parliament on the 51st day after writ day.

**“152 Death before close of nominations**

- “(1) If a constituency candidate who has been nominated and has not withdrawn his or her nomination dies before the close of nominations,—
  - “(a) his or her nomination is to be treated in all respects as if it had not been made; and
  - “(b) his or her deposit must be returned to his or her personal representatives or, as the case may be, to the person who paid it.
- “(2) Subsection (3) applies if the candidate dies on nomination day before noon, or on any of the 3 days immediately before nomination day.
- “(3) If this subsection applies, then, once the Returning Officer is satisfied of the fact of death,—
  - “(a) the time for the close of nominations in that district is postponed until noon on the fourth day after the date of the candidate’s death; and
  - “(b) the Returning Officer must immediately give public notice of the fact that the close of nominations in that district has been postponed and of the new time for the close of nominations.
- “(4) If subsection (3) applies, but the candidate was nominated in a bulk nomination schedule or in accordance with section 146K, the references to Returning Officer in subsection (3) are to be read as references to the Chief Electoral Officer.

**“152A Incapacity of candidate before close of nominations**

- “(1) If a constituency candidate who has been nominated and has not withdrawn his or her nomination becomes incapacitated before the close of nominations, an application may be made for the cancellation of the nomination.
- “(2) Section 152B sets out how an application under subsection (1) must be made, and section 152C sets out how it is to be dealt with.
- “(3) If the Returning Officer or, as the case requires, the Chief Electoral Officer cancels the nomination in accordance with section 152C(3),—
- “(a) the candidate’s nomination is to be treated in all respects as if it had not been made; and
  - “(b) the candidate’s deposit must be returned to the candidate or, as the case may be, to the person who paid it.
- “(4) If the candidate’s nomination is cancelled on nomination day, or on any of the 3 days immediately before nomination day, then—
- “(a) the time for the close of nominations in the district is postponed until noon on the fourth day after the date on which the candidate’s nomination is cancelled; and
  - “(b) the Returning Officer or, as the case requires, the Chief Electoral Officer must immediately give public notice of the fact that the close of nominations in the district has been postponed and of the new time for the close of nominations.

**“152B Procedural provisions relating to making of application under section 152A(1)**

- “(1) An application under section 152A(1) must be made as follows:
- “(a) if the candidate was nominated under section 143,—
    - “(i) the application must be made by the 2 registered electors who nominated the candidate, or, if either or both of them are unavailable or unable to act for any reason, then by the candidate’s agent:
    - “(ii) the application must be made to the Returning Officer for the district:

- “(b) if the candidate was nominated in a bulk nomination schedule or in accordance with section 146K,—
  - “(i) the application must be made by the secretary of the party;
  - “(ii) the application must be made to the Chief Electoral Officer.
- “(2) The application must be made on a form provided by the Chief Electoral Officer, and must be witnessed by a Justice of the Peace or a solicitor.
- “(3) The application must be accompanied by a certificate signed by a registered medical practitioner that certifies—
  - “(a) as to the candidate’s condition; and
  - “(b) that, in the practitioner’s opinion, the candidate is incapacitated within the meaning of section 151A.
- “(4) The application—
  - “(a) must be submitted to the Returning Officer or, as the case requires, the Chief Electoral Officer not later than 4.00 pm on nomination day; and
  - “(b) may be submitted by hand, post, or facsimile transmission.

**“152C How application under section 152A to be dealt with**

- “(1) On receiving an application made under section 152A(1), the Returning Officer or, as the case requires, the Chief Electoral Officer must, without delay, determine whether or not the candidate became incapacitated before the close of nominations.
- “(2) For the purpose of making a determination under subsection (1), the Returning Officer or Chief Electoral Officer may make any inquiries, and seek any assistance (including, without limitation, expert medical assistance), that he or she considers necessary.
- “(3) If, before midnight on nomination day, the Returning Officer or Chief Electoral Officer determines that the candidate became incapacitated before the close of nominations, the Returning Officer or Chief Electoral Officer must cancel the candidate’s nomination.

- “(4) If the Returning Officer or Chief Electoral Officer has not made a determination under subsection (1) before midnight on nomination day, then—
- “(a) section 152A does not apply; and
  - “(b) the application is to be treated as if it were an application under section 153G(1), and is to be determined accordingly.
- “(5) As soon as practicable after making a determination under subsection (1), the Returning Officer or Chief Electoral Officer must inform the applicant or applicants of that determination.

**“153 Death or incapacity of list candidate after submission of list**

- “(1) This section applies if a candidate whose name is included on a list submitted under section 127 dies, or his or her nomination is cancelled on the grounds of incapacity, after the submission of the list and before the declaration required by section 193(5).
- “(2) If this section applies,—
- “(a) the poll must proceed; and
  - “(b) the list must be treated subsequently as if the candidate’s name had never been included on that list.

**“153A Death or incapacity of constituency candidate after close of nominations and before polling day**

- “(1) This section applies if a constituency candidate dies, or his or her nomination is cancelled on the grounds of incapacity, after the close of nominations and before polling day.
- “(2) If this section applies, then once the Returning Officer is satisfied that the candidate has died or, as the case requires, that the candidate’s nomination has been cancelled, the Returning Officer must,—
- “(a) in the case of a general election,—
    - “(i) issue a notice cancelling the poll for the election of a member of Parliament for the district; and
    - “(ii) proceed to conduct the poll on the part of the ballot paper that relates to the party vote, which for these purposes is to be treated as if it were the

- only part of the ballot paper; and this Part applies with any necessary modifications; and
- “(b) in the case of a by-election, issue a notice cancelling the poll; and
  - “(c) report to the Chief Electoral Officer—
    - “(i) the issue and the date of the notice, under paragraph (a) or paragraph (b), cancelling the poll; and
    - “(ii) whether the poll was cancelled because of the candidate’s death or because of the candidate’s incapacity; and
    - “(iii) the date of the candidate’s death, if applicable; and
    - “(iv) if the candidate’s incapacity was determined, under section 153H, by the Returning Officer, the date of the determination.
- “(3) Immediately after receiving the Returning Officer’s report under subsection (2)(c), the Chief Electoral Officer must endorse on the writ—
- “(a) the name of the candidate whose death or whose incapacity resulted in the cancellation of the poll for the election of a member of Parliament for the district concerned; and
  - “(b) the date of the notice by which the poll was cancelled; and
  - “(c) the date on which the candidate died or, as the case requires, the date on which the candidate’s incapacity was determined.

**“153B Death or incapacity of constituency candidate on polling day**

- “(1) This section applies if a constituency candidate dies, or his or her nomination is cancelled on the grounds of incapacity, on polling day before the close of the poll.
- “(2) If this section applies, then once the Returning Officer is satisfied that the candidate has died or, as the case requires, that the candidate’s nomination has been cancelled, the Returning Officer must,—
  - “(a) in the case of a general election,—

- “(i) immediately close the part of the poll that is based on electorate votes and declare that part of the poll to be of no effect; and
  - “(ii) proceed to conduct the poll on the part of the ballot paper that relates to the party vote, which for these purposes is to be treated as if it were the only part of the ballot paper; and this Part applies with any necessary modifications; and
  - “(b) in the case of a by-election, immediately close the poll; and
  - “(c) report to the Chief Electoral Officer—
    - “(i) the closure of the poll or part of the poll and the time of the closure; and
    - “(ii) whether the poll or part of the poll was closed because of the candidate’s death or because of the candidate’s incapacity; and
    - “(iii) if the candidate’s incapacity was determined, under section 153H, by the Returning Officer, the date of the determination.
- “(3) Immediately after receiving the Returning Officer’s report under subsection (2)(c), the Chief Electoral Officer must endorse on the writ—
- “(a) the name of the candidate whose death or whose incapacity resulted in the closure of the poll for the election of a member of Parliament for the district concerned; and
  - “(b) the time of that closure; and
  - “(c) the date on which the candidate died or, as the case requires, the date on which the candidate’s incapacity was determined.

**“153C Death or incapacity of successful constituency candidate after close of poll and before declaration of result**

- “(1) This section applies if—
- “(a) a constituency candidate dies, or his or her nomination is cancelled on the grounds of incapacity, after the close of the poll and before the declaration of the result of the poll; and

- “(b) it is found on the completion of the count of votes or on a recount that the candidate, if still living or if not incapacitated, would have been elected.
- “(2) If this section applies, then once the Returning Officer is satisfied that the candidate has died or, as the case requires, that the candidate’s nomination has been cancelled, the Returning Officer must report to the Chief Electoral Officer—
  - “(a) the death or incapacity of the candidate; and
  - “(b) the date of the candidate’s death, if applicable; and
  - “(c) if the candidate’s incapacity was determined, under section 153H, by the Returning Officer, the date of the determination.
- “(3) The Chief Electoral Officer must, immediately on being satisfied of the Returning Officer’s report under subsection (2), endorse on the writ—
  - “(a) the name of the candidate; and
  - “(b) that the candidate would, if still living or if not incapacitated, have been elected as the member of Parliament for the district concerned; and
  - “(c) the date on which the candidate died or, as the case requires, the date on which the candidate’s incapacity was determined.

**“153D Application of equality of votes provisions if constituency candidate dies or becomes incapacitated after close of poll**  
The provisions of this Act as to an equality of votes between constituency candidates apply even though, after the close of the poll, 1 of those candidates dies or the nomination of 1 of those candidates is cancelled on the grounds of incapacity.

**“153E New election to be held if writ vacated**

- “(1) Immediately after endorsing the writ in accordance with section 153A or section 153B or section 153C, the Chief Electoral Officer must notify the Governor-General of the need for a fresh election because of the death or the incapacity of the candidate concerned.
- “(2) On receiving notification under subsection (1), the Governor-General must, without delay, issue a writ for a fresh election in

that district, and that election must be conducted as if it were a by-election unless this Act provides otherwise.

- “(3) The main roll and supplementary rolls which were to be used at the election which has failed must be used at the new election without any amendment or addition.
- “(4) Any candidate who, at the time of the cancellation or closure of the poll, was a duly nominated candidate does not need to be nominated again, but the candidate may withdraw his or her nomination before the time appointed for the close of nominations for the new election.
- “(5) All appointments of polling places made in respect of the election that has failed continue in respect of the new election.

**“153F Destruction of ballot papers if by-election interrupted**

- “(1) This section applies if, in the case of a by-election, the poll is interrupted as a result of the death of a constituency candidate or the cancellation of the nomination of a constituency candidate on the grounds of incapacity.
- “(2) If this section applies,—
  - “(a) all ballot papers that have been placed in ballot boxes must be taken out by the managers of polling places and made up into secured packages; and
  - “(b) those packages must be sent, unopened, to the Returning Officer; and
  - “(c) the Returning Officer must immediately destroy those packages in the presence of a District Court Judge or a Justice of the Peace.

**“153G Application for cancellation of nomination if candidate incapacitated after close of nominations**

- “(1) An application may be made for the cancellation of the nomination of a candidate if,—
  - “(a) in the case of a candidate whose name is included on a list submitted under section 127, the candidate becomes incapacitated after the submission of the list and before the declaration required by section 193(5):



- “(b) in the case of a constituency candidate, the candidate becomes incapacitated after the close of nominations and before the declaration of the result of the poll.
- “(2) An application under subsection (1) must be made as follows:
  - “(a) if the candidate was nominated under section 143,—
    - “(i) the application must be made by the 2 registered electors who nominated the candidate or, if either or both of them are unavailable or unable to act for any reason, then by the candidate’s agent:
    - “(ii) the application must be made to the Returning Officer for the district:
  - “(b) if the candidate was nominated in a bulk nomination schedule or in accordance with section 146K, or is a candidate whose name is included on a list submitted under section 127,—
    - “(i) the application must be made by the secretary of the party:
    - “(ii) the application must be made to the Chief Electoral Officer.
- “(3) The application must be made on a form provided by the Chief Electoral Officer, and must be witnessed by a Justice of the Peace or a solicitor.
- “(4) The application must be accompanied by a certificate signed by a registered medical practitioner that certifies—
  - “(a) as to the candidate’s condition; and
  - “(b) that, in the practitioner’s opinion, the candidate is incapacitated within the meaning of section 151A.
- “(5) The application—
  - “(a) must be submitted to the Returning Officer or, as the case requires, the Chief Electoral Officer—
    - “(i) as soon as practicable after the candidate becomes incapacitated; and
    - “(ii) before the declaration of the result of the poll; and
  - “(b) may be submitted by hand, post, or facsimile transmission.

**“153H How application under section 153G to be dealt with**

- “(1) On receiving an application made under subsection (1) of section 153G, the Returning Officer or, as the case requires,

the Chief Electoral Officer must, without delay, determine whether or not the candidate became incapacitated in the circumstances set out in that subsection.

- “(2) For the purpose of making a determination under subsection (1), the Returning Officer or Chief Electoral Officer may make any inquiries, and seek any assistance (including, without limitation, expert medical assistance), that he or she considers necessary.
- “(3) If, before the declaration of the result of the poll, the Returning Officer or Chief Electoral Officer determines that the candidate became incapacitated in the circumstances set out in section 153G(1), the Returning Officer or Chief Electoral Officer must cancel the candidate’s nomination.
- “(4) If the Returning Officer or Chief Electoral Officer has not made a determination under subsection (1) before the declaration of the result of the poll, the application is to be treated as having been declined.
- “(5) As soon as practicable after making a determination under subsection (1), the Returning Officer or Chief Electoral Officer must inform the applicant or applicants of that determination.”

## **62 Power to appoint polling places**

- (1) Section 155(1) of the principal Act is amended by omitting the words “Governor-General”, and substituting the words “Chief Electoral Officer”.
- (2) Section 155 of the principal Act is amended by repealing subsection (5), and substituting the following subsections:
- “(5) The Chief Electoral Officer may make the details of every appointment, revocation, alteration, or addition publicly available by any means that the Chief Electoral Officer considers appropriate.
- “(6) Subsection (5) does not limit section 147.”

## **63 New sections 157 to 160 substituted**

The principal Act is amended by repealing sections 157 to 160, and substituting the following sections:

**“157 Materials for polling places**

- “(1) The Returning Officer must ensure that each polling place has the following things for the purposes of the poll:
- “(a) 1 or more inner compartments to enable voters to vote in secret:
  - “(b) in each inner compartment, suitable facilities for the marking of ballot papers:
  - “(c) 1 or more ballot boxes:
  - “(d) 1 or more copies of the main roll and supplementary rolls for the district:
  - “(e) a sufficient number of ballot papers.
- “(2) The Returning Officer must ensure that there is displayed prominently in every polling place either—
- “(a) the name of each political party that submitted a list in accordance with section 127 and, under the name of each political party, the names of the political party’s list candidates in the political party’s order of preference (up to a maximum of 65 candidates); or
  - “(b) copies of the information sent to electors under section 147(5).

**“158 Appointment of polling place officials**

- “(1) The Returning Officer must, for each polling place, appoint in writing as many polling place officials as the Returning Officer thinks are required for the conduct of the poll, and the preliminary count of votes, at that place.
- “(2) The Returning Officer must, in relation to each polling place, designate, by notice in writing, 1 of the polling place officials as the manager of the place.
- “(3) The Returning Officer may, in relation to each polling place,—
- “(a) authorise in writing 1 or more polling place officials to issue ballot papers at the place; and
  - “(b) designate in writing 1 or more of the polling place officials as interpreters; and
  - “(c) authorise in writing or, if the appointment is made on polling day, orally, any person to act for the manager of the polling place in case of the manager’s absence.

“(4) The Returning Officer for an electoral district may delegate his or her duties and powers under subsections (1) to (3) to a Returning Officer for another electoral district.

“(5) The State Sector Act 1988 does not apply to a person appointed under this section.

**“158A Polling place officials under direction of Chief Electoral Officer and Returning Officer**

“(1) The Chief Electoral Officer and the Returning Officer may each give oral or written directions to all or any polling place officials.

“(2) Every polling place official must exercise or perform his or her powers, duties, and functions in accordance with any directions given by the Chief Electoral Officer or the Returning Officer.

**“159 Exercise of powers and duties of polling place officials**

“(1) The Returning Officer may exercise in person all the powers, duties, and functions of a manager of a polling place.

“(2) A person authorised under section 158(3)(c) has, while acting for a manager of a polling place, all the powers, duties, and functions of the manager.

“(3) Every polling place official must, before being allowed to act, make a declaration in form 1 before the Returning Officer, or a Justice of the Peace, or a solicitor, or the manager, or an issuing officer of the polling place concerned.

**“159A Interpreters**

“(1) Whenever the Returning Officer designates polling place officials as interpreters, the Returning Officer must, at the request of a candidate, give the candidate the names of the interpreters.

“(2) Regulations made under section 267 may prescribe procedures governing the use of interpreters.

**“160 Scrutineers**

“(1) Each constituency candidate may appoint 1 or more scrutineers for each polling place at any election.

- “(2) If, at an election in a district, no constituency candidate is standing for a political party that is listed in the part of the ballot paper that relates to the party vote, the secretary of the party may appoint 1 or more scrutineers for each polling place in the district.
- “(3) Every appointment of a scrutineer—
- “(a) must be in writing; and
  - “(b) must be signed by the constituency candidate or, as the case requires, the secretary of the party.
- “(4) Every scrutineer must, before being allowed to act, make a declaration in form 1 before the Returning Officer, or a Justice of the Peace, or a solicitor, or the manager, or an issuing officer of the polling place concerned.
- “(5) The number of scrutineers for a candidate or for a political party who may be present in a polling place may not exceed the number of issuing officers designated for the polling place.
- “(6) A scrutineer may at any time during the hours of polling leave and re-enter the polling place for which he or she is appointed.
- “(7) Nothing in this Act renders it unlawful for a scrutineer to communicate to a person information as to the names of persons who have voted.
- “(8) No candidate may act as a scrutineer under this section.”

**64 New section 164 substituted**

The principal Act is amended by repealing section 164, and substituting the following section:

**“164 Persons not to remain in polling places**

No person not actually engaged in voting may remain in a polling place other than the following:

- “(a) the Returning Officer;
- “(b) polling place officials;
- “(c) scrutineers;
- “(d) any other person with the permission of the Returning Officer.”

**65 New section 167 substituted**

- (1) The principal Act is amended by repealing section 167, and substituting the following section:

**“167 Issue of ordinary ballot papers**

- “(1) Every issuing officer must, in accordance with this section, issue ballot papers to every elector who applies to vote.
- “(2) The elector must give any particulars that are necessary for finding the elector’s name on the rolls.
- “(3) If the name of the elector is on the rolls, the issuing officer must—
- “(a) mark the rolls to indicate that the elector has applied to vote:
  - “(b) if the consecutive number printed on the ballot paper can be read without the aid of technology, ensure that a piece of gummed paper is firmly fixed over the consecutive number on the ballot paper to conceal it effectively:
  - “(c) write on the counterfoil of the ballot paper—
    - “(i) the issuing officer’s initials; and
    - “(ii) the number of the page, and the number of the line, on which the elector’s name appears on the roll:
  - “(d) ensure that the official mark of the issuing officer is placed on the ballot paper to indicate that it was issued by an authorised person:
  - “(e) issue the ballot paper to the elector.
- “(4) Every person commits an offence and is liable on summary conviction to a fine not exceeding \$1,000 who, being an issuing officer, fails to comply with the requirements of this section.”
- (2) Section 45 of the Electoral Amendment Act (No 2) 1995 is consequentially repealed.

**66 Sections 173 and 173A repealed**

- (1) The principal Act is amended by repealing sections 173 and 173A.
- (2) Sections 51 and 52 of the Electoral Amendment Act (No 2) 1995 are consequentially repealed.

**67 New sections 174 to 174G substituted**

- (1) The principal Act is amended by repealing section 174, and substituting the following sections:

**“174 Preliminary count of votes cast in polling place**

- “(1) The manager of every polling place must, as soon as practicable after the close of the poll, in the presence of any scrutineers (including those lawfully in the polling place under any other Act) and the polling place officials, but of no other person, arrange for a preliminary count of the votes to be conducted in accordance with this section.
- “(2) For the purposes of the preliminary count, all ballot papers must be taken from the ballot boxes to ascertain, as the case may require,—
- “(a) the number of votes received by each party listed in the part of the ballot paper that relates to the party vote; or
  - “(b) the number of votes received by each candidate listed in the part of the ballot paper that relates to the electorate vote; or
  - “(c) both.
- “(3) For the purposes of subsection (2), the following votes must be set aside as informal:
- “(a) any party votes that do not clearly indicate the party for which the voter desired to vote;
  - “(b) any electorate votes that do not clearly indicate the candidate for whom the voter desired to vote.
- “(4) As soon as possible after ascertaining a result of the voting, the manager must ensure that the result is reported to the Returning Officer.
- “(5) If a referendum has, under any Act, been taken with the poll, the manager must ensure that the preliminary count of the party votes and the electorate votes, and the reports under subsection (4) take priority over the counting of the votes of the referendum.

**“174A Ballot papers, etc, to be compiled, certified, and sent to Returning Officer**

- “(1) After completing the preliminary count under section 174, the manager of the polling place must—
- “(a) ensure that the following documents are enclosed in 1 or more parcels:
    - “(i) the used ballot papers;
    - “(ii) the ballot papers set aside under section 171:

- “(iii) the certified copies of the main roll and supplementary rolls that have been marked by issuing officers to indicate the persons who applied to vote:
- “(iv) all the counterfoils of ballot papers that have been issued to voters and all the unused ballot papers:
- “(v) all the spoilt ballot papers; and
- “(b) ensure that each parcel is properly secured and endorsed with a description of its contents, the name of the district, the name or other identifier of the polling place, and the date of the polling; and
- “(c) ensure that 1 or more certificates are prepared that certify—
  - “(i) the number of votes received by each party (if applicable):
  - “(ii) the number of votes received by each candidate (if applicable):
  - “(iii) the number of informal party votes:
  - “(iv) the number of informal electorate votes:
  - “(v) the number of ballot papers set aside under section 171:
  - “(vi) the number of spoilt ballot papers:
  - “(vii) the number of ballot papers issued to special voters:
  - “(viii) the number of unused ballot papers:
  - “(ix) the total number of ballot papers allocated for use at the polling place; and
- “(d) sign, and invite each scrutineer who is present to sign, every endorsement prepared under paragraph (b) and every certificate prepared under paragraph (c).
- “(2) The manager must ensure that all parcels mentioned in this section are sent to the Returning Officer without delay.
- “(3) This section does not prevent any of the documents referred to in subparagraphs (ii) to (v) of subsection (1)(a) from being placed in 1 or more parcels before the preliminary count under section 174 has commenced or while it is in progress.



**“174B No preliminary count if fewer than 6 ordinary ballot papers issued**

- “(1) If, at any election, the number of ordinary ballot papers issued for a district at a polling place is smaller than 6, the manager of the polling place must, after the close of the poll, arrange for the secure dispatch of those ballot papers to the Returning Officer for the district.
- “(2) This section overrides sections 174 and 174A.

**“174C Preliminary count of early votes**

- “(1) In this section and in sections 174D to 174G, **early votes** means special votes that—
- “(a) are delivered or sent to the Returning Officer on or before polling day; and
  - “(b) were, in accordance with regulations made under this Act, issued in substantially the same manner as ordinary ballot papers are issued under section 167.
- “(2) The Returning Officer must, in the presence of any scrutineers appointed under section 174F and any of the Returning Officer’s assistants, but of no other person, conduct, in accordance with this section, a preliminary count of early votes.
- “(3) The Returning Officer must take the early votes and ascertain, as the case may require,—
- “(a) the number of votes received by each party listed in the part of the ballot paper that relates to the party vote; or
  - “(b) the number of votes received by each candidate listed in the part of the ballot paper that relates to the electorate vote; or
  - “(c) both.
- “(4) For the purposes of subsection (3), the Returning Officer must set aside as informal—
- “(a) all party votes that do not clearly indicate the party for which the voter desired to vote;
  - “(b) all electorate votes that do not clearly indicate the candidate for whom the voter desired to vote.
- “(5) A count under this section must be commenced,—
- “(a) if the conditions stated in section 174D(2) apply, as soon as practicable after 3 pm on polling day; or

“(b) if those conditions do not apply, as soon as practicable after the close of the poll.

“(6) If a referendum has, under any Act, been taken with the poll, the Returning Officer must ensure that the count, under this section, of party votes and electorate votes takes priority over the counting of the votes of the referendum.

**“174D Conditions for counting early votes before close of poll**

“(1) In this section and in sections 174E to 174G, restricted area means an area, in the office of the Returning Officer, that—

“(a) is designated by the Returning Officer for the purpose of the count of early votes; and

“(b) has features that—

“(i) preclude persons who are not in the area from seeing or hearing any aspect of the count; and

“(ii) permit the Returning Officer to control persons who wish to enter or leave the area.

“(2) The conditions referred to in section 174C(5)(a) are as follows:

“(a) the Chief Electoral Officer has authorised the Returning Officer to commence the count before the close of the poll:

“(b) the count is to be conducted in a restricted area:

“(c) on every entrance to the restricted area there is a notice stating that it is an offence, without the express authorisation of the Returning Officer, to enter the area:

“(d) on every exit from the restricted area there is a notice stating that it is an offence, without the express authorisation of the Returning Officer, to leave the area.

**“174E Maintenance of secrecy of count of early votes**

“(1) On polling day, no person (other than a scrutineer appointed under section 174F) may, without the express authorisation of the Returning Officer, enter a restricted area.

“(2) On polling day, a person who enters, whether with or without authorisation, a restricted area may not leave the area before the close of the poll without the express authorisation of the Returning Officer.

- “(3) The Chief Electoral Officer may issue instructions to Returning Officers setting further requirements for the purpose of maintaining the secrecy of counts conducted before the close of the poll.
- “(4) The Returning Officer must ensure that all persons who take part in the counts conducted before the close of the poll are familiar with any instructions issued under subsection (3), and the Returning Officer and those persons must comply with those instructions.

**“174F Scrutineers for count of early votes**

- “(1) Each constituency candidate may appoint a scrutineer to attend at the count of early votes conducted under section 174C.
- “(2) Every appointment of a scrutineer—
- “(a) must be in writing; and
  - “(b) must be signed by the constituency candidate.
- “(3) Every scrutineer must, before being allowed to attend at the count, make a declaration in form 1 before the Returning Officer or a Justice of the Peace or a solicitor.
- “(4) If the count is conducted before the close of the poll, every scrutineer appointed under this section may enter and be present in the restricted area from 2.30 pm on polling day until the conclusion of the count.
- “(5) No scrutineer may, before the close of the poll, enter a restricted area with a device that enables information to be conveyed to a person or machine outside the area.
- “(6) If a scrutineer fails to comply with subsection (5) or an instruction issued under section 174E(3) and communicated to the scrutineer, the Returning Officer may—
- “(a) refuse to allow the scrutineer to enter the restricted area; or
  - “(b) require the scrutineer to leave the restricted area.

**“174G Offences in relation to count of early votes conducted before close of poll**

- “(1) Every person commits an offence and is liable on summary conviction to a fine not exceeding \$2,000 who,—

- “(a) not being a scrutineer appointed under section 174F, enters, on polling day, a restricted area without the express authorisation of the Returning Officer; or
  - “(b) being a scrutineer appointed under section 174F, enters, on polling day, a restricted area with a device that enables information to be conveyed to a person or machine outside the area; or
  - “(c) leaves, on polling day, a restricted area without the express authorisation of the Returning Officer.
- “(2) Every person commits an offence and is guilty of a corrupt practice who, being or having been in a restricted area, discloses, before the close of the poll, to any person outside the area any information about the results of a count of early votes conducted under section 174C.”
- (2) Section 53 of the Electoral Amendment Act (No 2) 1995 is consequentially repealed.

#### **68 Scrutiny of the rolls**

- (1) Section 175 of the principal Act is amended by repealing subsection (3), and substituting the following subsection:
- “(3) Every scrutineer must, before being allowed to act, make a declaration in form 1 before the Chief Electoral Officer, the Returning Officer, a Justice of the Peace, or a solicitor.”
- (2) Section 175 of the principal Act is amended by repealing subsection (5), and substituting the following subsection:
- “(5) The only persons who may be present at the scrutiny are—
- “(a) the Chief Electoral Officer:
  - “(b) the Returning Officer:
  - “(c) any assistant of the Chief Electoral Officer or of the Returning Officer:
  - “(d) any expert or technician who provides advice or support to the Chief Electoral Officer or to the Returning Officer for the purpose of the scrutiny:
  - “(e) any scrutineer.”

#### **69 Marked copies of rolls to be compared**

- (1) Section 176 of the principal Act is amended by repealing subsections (1) and (2), and substituting the following subsections:

- “(1) The Returning Officer or the Chief Electoral Officer must, in the presence of any assistants, experts, or technicians and any scrutineers that are entitled to be present under this Act or any other Act, but of no other person,—
- “(a) compare (either manually or by any electronic means)—
    - “(i) all the certified copies of the main roll and supplementary rolls that have been marked to indicate the persons who applied to vote; and
    - “(ii) all records of special votes exercised; and
    - “(iii) the list of post-writ day deletions supplied to the Returning Officer by the Registrar of Electors under section 123(b); and
  - “(b) compile a master roll by marking (either manually or by any electronic means) on an unmarked copy of the main roll and on every supplementary roll the number and name of any elector—
    - “(i) who is shown on any of the certified copies of the rolls as having received a ballot paper; or
    - “(ii) who is shown in any record of special votes issued as having received a ballot paper; or
    - “(iii) whose name is shown on the list of post-writ day deletions.
- “(2) If on that comparison or from the checking of declarations in respect of special votes or from the report of a manager of a polling place on the ballot papers set aside under section 171, and after any inquiry the Returning Officer considers necessary, it appears that the same voter has received more than 1 ballot paper, the Returning Officer must,—
- “(a) in the presence of any assistants and any scrutineers that choose to be present, but of no other person, open the parcel or parcels of ballot papers that are likely to contain the ballot papers issued to the voter; and
  - “(b) select from the parcel or parcels the ballot papers that appear from their consecutive numbers and counterfoils to have been issued to that voter; and
  - “(c) subject to subsection (3), disallow every vote that appears to have been given by means of the ballot papers so selected.”

- (2) Section 176(4) of the principal Act is amended by repealing paragraphs (a) and (b), and substituting the following paragraphs:
- “(a) must, in the presence of any assistants and any scrutineers that choose to be present, but of no other person, open the parcel or parcels of ballot papers that are likely to contain the ballot papers issued to the voter; and
- “(b) must select from the parcel or parcels the ballot papers that appear from their consecutive numbers and counterfoils to have been issued to that voter; and.”
- (3) Section 176 of the principal Act is amended by repealing subsection (7).

#### **70 Counting the votes**

- (1) Section 178 of the principal Act is amended by repealing subsection (1), and substituting the following subsection:
- “(1) On or before the completion of the scrutiny under section 175, the Returning Officer, with any assistants the Returning Officer considers necessary, and in the presence of any of the scrutineers appointed under section 175 that are present (not exceeding, unless the Returning Officer otherwise permits, 1 scrutineer for each candidate) and also in the presence of a Justice (who is to attend at the request of the Returning Officer), but of no other person, must select and open 1 of the parcels of used ballot papers referred to in section 174A(1)(a)(i).”
- (2) Section 178(2) of the principal Act is amended by omitting the word “booth” in both places where it occurs, and substituting in each case the word “place”.
- (3) Section 178(5)(a) of the principal Act is amended by repealing subparagraph (i), and substituting the following subparagraph:
- “(i) any ballot paper that does not bear the official mark if there is reasonable cause to believe that it was not issued to a voter by an issuing officer; and.”
- (4) Section 178(5)(c) of the principal Act is amended by omitting the expression “Returning Officer” in the second place where it occurs, and substituting the expression “polling place manager”.

- (5) Section 178(5) of the principal Act is amended by repealing paragraph (d), and substituting the following paragraph:
- “(d) the Returning Officer must then endorse on the parcel the name or other identifier of the polling place where the votes were recorded; and that endorsement must be signed by the Returning Officer and the Justice who attends.”
- (6) Section 178 of the principal Act is amended by inserting, after subsection (5), the following subsection:
- “(5A) Despite section 60, if a voter who was qualified to vote as an elector of a particular district votes as if he or she were an elector of another district, the voter’s party vote—
- “(a) may not be disallowed simply because of the voter’s error with regard to the district; and
  - “(b) for the purposes of this section and sections 179 to 181, is to be regarded as having been cast by an elector of the other district.”

**71 New section 179 substituted**

- (1) The principal Act is amended by repealing section 179, and substituting the following section:

**“179 Declaration of result of poll**

- “(1) When the official count under section 178 is completed, the Returning Officer must give the Chief Electoral Officer the following information:
- “(a) the total number of valid votes received by each of the parties listed on the party vote part of the ballot paper:
  - “(b) the total number of valid votes received by each constituency candidate:
  - “(c) the total number of informal party votes:
  - “(d) the total number of informal electorate votes.
- “(2) As soon as practicable after receiving from a Returning Officer the information specified in subsection (1), the Chief Electoral Officer must declare the results of the official count for the district concerned by publishing in the *Gazette* a notice in form 14.
- “(3) The Chief Electoral Officer may declare the results for any number of districts on the same day, if the Chief Electoral Officer considers it appropriate to do so.

- “(4) The Chief Electoral Officer may make arrangements under which persons with a particular interest in any declaration under subsection (2) are informed of the result, by any means the Chief Electoral Officer considers appropriate.
- “(5) If there is an equality of votes between constituency candidates for a district and the addition of 1 vote would entitle 1 of those candidates to be declared elected, the Chief Electoral Officer must, without delay, apply to a District Court Judge for a recount under section 180, and all the provisions of that section apply accordingly, except that no deposit is necessary.
- “(6) If on a recount under section 180 there is an equality of votes between constituency candidates and the addition of 1 vote would entitle 1 of those candidates to be declared elected, the Chief Electoral Officer must determine by lot which of those candidates is to be elected.”
- (2) Section 57 of the Electoral Amendment Act (No 2) 1995 is consequentially repealed.

## **72 Scrutineers for recounts and allocation of list seats**

Section 183 of the principal Act is amended by repealing subsection (4), and substituting the following subsection:

- “(4) Every scrutineer appointed under this section must, before being allowed to act, make a declaration in form 1 before the Chief Electoral Officer, the Returning Officer, a Justice of the Peace, or a solicitor.”

## **73 New sections 185 and 186 substituted**

The principal Act is amended by repealing sections 185 and 186, and substituting the following sections:

### **“185 Endorsement and return of writ**

- “(1) As soon as practicable after the Chief Electoral Officer has, under section 179(2), declared the result for every district, the Chief Electoral Officer must—
- “(a) endorse on the writ—
    - “(i) the full name of every constituency candidate declared to be elected; and
    - “(ii) the date of the endorsement; and
  - “(b) sign the writ; and



- “(c) immediately after endorsing and signing the writ, transmit the writ to the Clerk of the House of Representatives.
- “(2) The date endorsed on the writ under subsection (1) is the day of the return of the writ.
- “(3) The writ must be returned within the time specified in the writ for its return.
- “(4) If any application for a recount of the votes for any constituency candidates has been made, the Chief Electoral Officer must postpone the return of the writ until the completion of every recount.
- “(5) If, at any time before the expiry of the time for an application for a recount of the votes for constituency candidates, it appears to the Chief Electoral Officer that such an application may be made, the Chief Electoral Officer may postpone the return of the writ until that expiry.
- “(6) Subsections (4) and (5) prevail over subsections (1) to (3).

**“186 Chief Electoral Officer may correct writ**

- “(1) If the Chief Electoral Officer is satisfied that the name of a member elected to represent an electoral district is not correctly recorded on the writ, the Chief Electoral Officer, before or after complying with the requirements of section 185(1), may make any alterations to the writ necessary to ensure that the member’s name is correctly recorded.
- “(2) The Chief Electoral Officer may not make a correction under subsection (1) unless he or she has first consulted with the member concerned and the Returning Officer.
- “(3) If the Chief Electoral Officer makes a correction under subsection (1) after complying with the requirements of section 185(1),—
  - “(a) the Chief Electoral Officer must forward to the Clerk of the House of Representatives a copy of the writ as corrected; and
  - “(b) that copy is to be treated for all purposes as the copy forwarded to the Clerk of the House of Representatives under section 185(1).”

**74 Disposal of ballot papers, rolls, etc**

Section 187 of the principal Act is amended by repealing subsection (1), and substituting the following subsections:

- “(1) As soon as practicable after giving the Chief Electoral Officer the information specified in section 179(1), the Returning Officer must destroy or cause to be destroyed all unused ballot papers.
- “(1A) As soon as practicable after complying with the requirements of subsection (1), the Returning Officer must—
- “(a) enclose or cause to be enclosed in 1 or more packets all parcels that have been received, or made up, by the Returning Officer and that contain any of the following documents:
    - “(i) used ballot papers, including the special voters’ ballot papers:
    - “(ii) counterfoils of issued ballot papers and counterfoils of unused ballot papers:
    - “(iii) spoilt ballot papers:
    - “(iv) ballot papers set aside under section 171 or section 177; and
  - “(b) enclose or cause to be enclosed in 1 or more packets the following materials:
    - “(i) ballot paper accounts:
    - “(ii) copies of rolls (except the master roll):
    - “(iii) books or other papers provided for by this Act:
    - “(iv) all letters and other papers received from any manager of a polling place or issuing officer about special votes; and
  - “(c) ensure that each packet is properly secured and endorsed with a description of its contents, the name of the district, the name or other identifier of the polling place, and the date of the polling; and
  - “(d) sign the endorsement on each packet; and
  - “(e) ensure that every packet is sent to the Clerk of the House of Representatives without delay.”

**75 New section 189 substituted**

The principal Act is amended by repealing section 189, and substituting the following section:

**“189 Disposal of packets**

- “(1) The packets and parcels must be safely kept for 6 months unopened, unless a court of competent jurisdiction or the House of Representatives orders them, or any of them, to be opened.
- “(2) At the end of 6 months, the packets and parcels must be destroyed unopened in the presence of the Clerk of the House of Representatives and the Chief Electoral Officer.
- “(3) Despite subsection (2), a packet or parcel may not be destroyed so long as the packet or parcel is, or may reasonably be expected to be, required for the purposes of an investigation into, or a prosecution of, an offence against this Act.”

**76 Selection of candidates**

Section 193(5)(a) of the principal Act is amended by inserting, before the word “names”, the word “full”.

**77 New section 193A inserted**

The principal Act is amended by inserting, after section 193, the following section:

**“193A Chief Electoral Officer may correct list of members elected**

- “(1) If the Chief Electoral Officer is satisfied that the name of a member declared to be elected is not correctly recorded on a return forwarded to the Clerk of the House of Representatives under section 193(5)(b),—
- “(a) the Chief Electoral Officer may forward to the Clerk of the House a further return that correctly records the member’s name; and
- “(b) that further return—
- “(i) is to be treated for the purposes of section 54(2)(a) as dated the same as the earlier return; and
- “(ii) is to be treated for all purposes as the return forwarded to the Clerk of the House under section 193(5)(b).
- “(2) The Chief Electoral Officer may not forward a further return to the Clerk of the House under subsection (1)(a) unless the

Chief Electoral Officer has first consulted with the member concerned.”

**78 New section 194 substituted**

The principal Act is amended by repealing section 194, and substituting the following section:

**“194 Manager of polling place to maintain order**

“(1) Every manager of a polling place must maintain order and keep the peace at the polling place, and may, without any other warrant than this Act,—

“(a) cause to be arrested and taken before a Justice any person reasonably suspected of committing or attempting to commit at the polling place any of the offences set out in section 201; or

“(b) cause to be removed a person who obstructs the approaches to the polling place or wilfully and unnecessarily obstructs the proceedings at the polling or conducts himself or herself in a disorderly manner or causes a disturbance or wilfully acts in any manner in defiance of the lawful directions of the manager of the polling place.

“(2) All constables must aid and assist the manager of the polling place in the performance of his or her duty.”

**79 New sections 196 and 196A substituted**

The principal Act is amended by repealing section 196, and substituting the following sections:

**“196 Obligation of persons in possession of ballot papers**

“(1) Every person who is, other than for the purpose of recording his or her vote, in possession of 1 or more ballot papers must—

“(a) take all reasonable steps to ensure the safe custody of the ballot papers; and

“(b) deal with the ballot papers in accordance with—

“(i) any applicable provisions of this Act or regulations made under this Act; and

“(ii) in the case of an electoral official or a polling place official, any applicable directions given under section 20A or section 158A; and

- “(iii) in the case of a person involved in performing or assisting with the performance of a contract with an electoral official or a polling place official, the terms of the relevant contract and any instructions given by or on behalf of the official.
- “(2) Subsection (1) applies to a person involved in performing or assisting with the performance of a contract for the carriage of ballot papers only if the person is aware of that fact or, because of indications on the box, parcel, or packet in which the ballot papers are contained, ought to be aware of the fact.
- “(3) Whenever ballot papers are delivered to a Returning Officer by or on behalf of the printer who has printed the ballot papers,—
  - “(a) the Returning Officer must give or send the printer a receipt specifying the total number of ballot papers received by the Returning Officer; and
  - “(b) the printer must see that all copies of ballot papers other than those delivered to the Returning Officer are immediately destroyed.
- “(4) Every person commits an offence and is liable on summary conviction to a fine of \$2,000 who fails to comply with a requirement imposed on the person by this section.

**“196A Unlawful possession of ballot paper**

- “(1) Every person is liable on summary conviction to a fine not exceeding \$2,000 who, without authority under this Act or regulations made under this Act, obtains possession of any ballot paper.
- “(2) Every person commits an offence and is liable on summary conviction to a fine not exceeding \$2,000 who retains any ballot paper in his or her possession after leaving a polling place.”

**80 Interfering with or influencing voters**

Section 197 of the principal Act is amended by inserting, after subsection (2), the following subsection:

- “(2A) It is a defence to a prosecution for an offence against paragraph (g) of subsection (1) that relates to the publication on an Internet web site of a statement or other material specified in that paragraph, if the defendant proves that—

- “(a) the statement or material was placed on the web site before polling day; and
- “(b) the defendant did not operate or permit the operation of systems that cause the statement or material on the web site to be made available, on polling day, to persons other than persons who voluntarily access the web site; and
- “(c) the defendant did not, on polling day, distribute, broadcast, or exhibit in or in view of a public place, or publish, or at any time cause to be published, in an issue of a newspaper or magazine that is first issued on polling day any material promoting or advertising the web site.”

#### **81 New section 199A inserted**

The principal Act is amended by inserting, after section 199, the following section:

##### **“199A Publishing false statements to influence voters**

Every person is guilty of a corrupt practice who, with the intention of influencing the vote of any elector, at any time on polling day before the close of the poll, or at any time on any of the 2 days immediately preceding polling day, publishes, distributes, broadcasts, or exhibits, or causes to be published, distributed, broadcast, or exhibited, in or in view of any public place a statement of fact that the person knows is false in a material particular.”

#### **82 Periods for claiming and paying expenses**

Section 206 of the principal Act is amended—

- (a) by omitting from paragraph (a) the expression “30 days”, and substituting the expression “20 working days”;
- (b) by omitting from paragraph (b) the expression “60 days”, and substituting the expression “40 working days”.

#### **83 Procedure where claim disputed**

Section 207(1) of the principal Act is amended—

- (a) by omitting the expression “60 days” in both places where it occurs, and substituting in each case the expression “40 working days”;
- (b) by omitting the expression “30 days”, and substituting the expression “20 working days”.

#### **84 Payments to be vouched by bill**

Section 209 of the principal Act is amended by omitting the expression “\$20”, and substituting the expression “\$50”.

#### **85 Return of election expenses**

- (1) Section 210 of the principal Act is amended by repealing subsections (1) and (2), and substituting the following subsections:
  - “(1) Within 70 working days after polling day, every constituency candidate at the election must transmit to the Chief Electoral Officer a return setting out—
    - “(a) the constituency candidate’s election expenses; and
    - “(b) the name and address of each person who made a constituency candidate donation to the constituency candidate and the amount of each such donation; and
    - “(c) if an anonymous constituency candidate donation is made to the constituency candidate, and the amount of that donation exceeds \$1,000, the amount of each such donation.
  - “(2) Every return under subsection (1) must be on a form provided by the Chief Electoral Officer.”
- (2) Section 210 of the principal Act is amended by omitting the words “Returning Officer” wherever they occur in subsections (3), (4), (7), and (8), and substituting in each case the words “Chief Electoral Officer”.
- (3) Section 210(3) of the principal Act is amended by omitting the expression “21 days”, and substituting the expression “15 working days”.
- (4) Section 210(9) of the principal Act is amended by omitting the expression “election donation”, and substituting the expression “**constituency candidate donation**”.

**86 New section 210A inserted**

The principal Act is amended by inserting, after section 210, the following section:

**“210A Time limit for prosecutions**

- “(1) A prosecution against a candidate for an offence against subsection (4) or subsection (5) of section 210 must be commenced within 6 months after the expiry of the period within which the candidate is required by section 210 to transmit a return.
- “(2) However, if the person to be charged has been reported by the High Court in its report on the trial of an election petition to have been proved guilty of an offence against subsection (4) or subsection (5) of section 210, a prosecution must be commenced within whichever of the following periods is the later to expire:
- “(a) the period specified in subsection (1) for the bringing of prosecutions:
  - “(b) 3 months after the date of the report.
- “(3) This section applies whether the person is proceeded against summarily or on indictment.”

**87 New section 211 substituted**

- (1) The principal Act is amended by repealing sections 211 and 212, and substituting the following section:

**“211 Return to be available for public inspection**

- “(1) The Chief Electoral Officer must keep every return received under section 210 for the period beginning with the date of the receipt of the return and ending with the close of polling day for the second general election that takes place after the date on which the return was received by the Chief Electoral Officer.
- “(2) During that period each return must be open for inspection by any person on payment of any charges that may be made under the Official Information Act 1982; and, at the expiration of that period, the Chief Electoral Officer must cause each return to be destroyed.
- “(3) The Chief Electoral Officer—



- “(a) must, as soon as practicable after receiving a return for a district, send a copy of the return—
    - “(i) to the Returning Officer for the district; and
    - “(ii) to the Electoral Commission; and
  - “(b) may make copies of the returns publicly available by any means and for any time that the Chief Electoral Officer considers appropriate.
- “(4) Each Returning Officer must keep the copy of the return received, under subsection (3)(a)(i), for the period beginning with the date of the receipt of the copy and ending with the earlier of the following dates:
- “(a) the date on which the period of 6 months after that receipt expires;
  - “(b) the date on which the Returning Officer’s employment expires.
- “(5) During the relevant period under subsection (4), the Returning Officer must keep the copy of the return open for inspection by any person on payment of any charges that may be made under the Official Information Act 1982; and, at the expiration of the relevant period, the Returning Officer must cause the copy to be destroyed.”
- (2) Section 76 of the Electoral Amendment Act (No 2) 1995 is consequentially repealed.

### **88 Maximum amount of election expenses**

- (1) Section 213 of the principal Act is amended by repealing subsection (1), and substituting the following subsection:
- “(1) Subject to this section and to sections 214 and 214A, in this Act,—
- “**election activity**, in relation to a candidate at an election in any district, means an activity—
- “(a) which is carried out by the candidate or with the candidate’s authority; and
  - “(b) which comprises—
    - “(i) advertising of any kind; or
    - “(ii) radio or television broadcasting; or
    - “(iii) publishing, issuing, distributing, or displaying addresses, notices, posters, pamphlets, handbills, billboards, and cards; and

- “(c) which—
  - “(i) relates to the campaign for the return of the candidate in the candidate’s capacity as a candidate for the district and not to the candidate—
    - “(A) in his or her capacity as a member of Parliament or as the holder of any other office; or
    - “(B) in any other capacity; or
  - “(ii) encourages or persuades or appears to encourage or persuade voters not to vote for a candidate or for a party registered under Part IV; or
  - “(iii) both; and
- “(d) which takes place within the 3 months immediately preceding polling day
- “**election expenses**, in relation to a candidate at an election,—
  - “(a) means expenses that are incurred by or on behalf of the candidate in respect of any election activity; and
  - “(b) includes expenses that are incurred by or on behalf of the candidate, before or after the 3 months immediately preceding polling day, in respect of any election activity; and
  - “(c) includes the reasonable market value of any materials applied in respect of any election activity which are given to the candidate or which are provided to the candidate free of charge or below reasonable market value; and
  - “(d) includes the cost of any printing or postage in respect of any election activity, whether or not the expenses in respect of the printing or postage are incurred by or on behalf of the candidate; but
  - “(e) does not include the cost of any of the following:
    - “(i) travel;
    - “(ii) the conduct of any survey or public opinion poll;
    - “(iii) the labour of any person which is provided to the candidate free of charge by that person;
    - “(iv) the replacement of any materials that, during their application in respect of an election activity, have been destroyed or rendered unusable by 1 or more persons (other than the candidate

or any person acting on his or her behalf) or by the occurrence of an event beyond the control of the candidate and any person acting on his or her behalf.”

- (2) Section 213(4) of the principal Act is amended by omitting the expression “(a) to (d)”, and substituting the expression “(a) to (c)”.

**89 Advertisements for party lists**

Section 214A of the principal Act is amended by inserting, after the word “periodical,”, the word “poster,”.

**90 Maximum amount of parties’ election expenses**

- (1) Section 214B(1) of the principal Act is amended by repealing paragraph (c)(ii) of the definition of **election activity**, and substituting the following subparagraph:

“(ii) encourages or persuades or appears to encourage or persuade voters not to vote for a party registered under Part IV or for a candidate; or.”

- (2) Section 214B(1) of the principal Act is amended by repealing paragraph (e) of the definition of **election expenses**, and substituting the following paragraph:

“(e) does not include the cost of any of the following:

“(i) travel:

“(ii) the conduct of any survey or public opinion poll:

“(iii) the labour of any person which is provided to the party free of charge by that person:

“(iv) the replacement of any materials that, during their application in respect of an election activity, have been destroyed or rendered unusable by 1 or more persons (other than a person acting on behalf of the party) or by the occurrence of an event beyond the control of any person acting on behalf of the party; and.”

**91 New sections 214BA to 214BD inserted**

The principal Act is amended by inserting, after section 214B, the following sections:

**“214BA Periods for claiming and paying expenses**

- “(1) No claim against a party that is registered under Part IV in respect of any election expenses is recoverable unless it is sent in to the secretary of the party within 20 working days after the day on which the declaration required by section 193(5) is made.
- “(2) All election expenses incurred by or on behalf of a party that is registered under Part IV must be paid within 40 working days after the day on which that declaration is made, and not otherwise.
- “(3) Every person who makes any payment in breach of any of the provisions of this section is guilty of an illegal practice.
- “(4) This section is subject to sections 214BB and 214BC.

**“214BB Procedure if claim disputed**

- “(1) If a party that is registered under Part IV, in the case of a claim for election expenses sent in to the secretary of the party within the time limited by this Act, disputes it, or fails to pay it within the period of 40 working days specified in section 214BA(2), then—
- “(a) the claim is to be treated as a disputed claim; and
- “(b) the claimant may, if he or she thinks fit, within 20 working days after the expiration of that period of 40 working days, bring an action for the disputed claim in any court of competent jurisdiction.
- “(2) Any sum paid by the party in accordance with the judgment or order of the court in any such action is to be treated as paid within the time limited by this Act.

**“214BC Leave to pay claim after time limited**

- “(1) On cause shown to the satisfaction of a District Court, the Court may, on application by the claimant or by the party that is registered under Part IV, grant leave to that registered party to pay a disputed claim, or to pay a claim for any election expenses, although sent in after the time limited by this Act.
- “(2) Any sum specified in the order granting that leave may be paid by that registered party, and when so paid is to be treated as paid within the time limited by this Act.

**“214BD Payments to be vouched by bill**

Every payment made in respect of any election expenses of a party that is registered under Part IV, other than a payment that is less than \$100, must be vouched by a bill stating the particulars, and by a receipt.”

**92 Return of election expenses**

Section 214C of the principal Act is amended by repealing subsections (1) and (2), and substituting the following subsections:

- “(1) Within 50 working days after the day on which the result of an election of candidates whose names appear on the party lists is declared by the Chief Electoral Officer in accordance with section 193(5), the secretary of each political party registered under Part IV must ensure that the Electoral Commission receives a return of the party’s election expenses (which return must be on a form provided by the Electoral Commission) and the auditor’s report which has been obtained under section 214E and which relates to that return.
- “(2) Every secretary of a political party registered under Part IV who fails, without reasonable excuse, to comply with subsection (1) commits an offence and is liable on summary conviction to a fine not exceeding \$20,000.”

**93 Appointment of auditors**

Section 214D of the principal Act is amended by repealing subsection (3), and substituting the following subsections:

- “(2A) On the registration of a political party under section 67, the person named, under section 63(2)(c)(v), in the party’s application for registration as the party’s auditor is to be taken to have been appointed under subsection (1).
- “(3) Where an auditor appointed or taken to have been appointed by a party under subsection (1) ceases, or does not commence, for any reason to hold office as such or becomes ineligible as provided in subsection (2), the party must, without delay, appoint another auditor.”

**94 Auditor's report**

- (1) Section 214E of the principal Act is amended by repealing subsection (2), and substituting the following subsection:
- “(2) The auditor must state in the report—
- “(a) the position shown by the return in respect of the requirement that the party's total election expenses not exceed the maximum amount prescribed by section 214B; and
  - “(b) either—
    - “(i) whether, in the auditor's opinion, the position stated under paragraph (a) is correct; or
    - “(ii) that the auditor has been unable to form an opinion as to whether the position stated under paragraph (a) is correct.”
- (2) Section 214E(4) of the principal Act is amended by repealing paragraph (a).

**95 New sections 214F to 214L substituted**

The principal Act is amended by repealing sections 214F to 214L, and substituting the following sections:

**“214F Interpretation**

In sections 214G to 214J,—

“**party donation**, in relation to a party registered under Part IV,—

- “(a) means a donation (whether of money or of the equivalent of money or of goods or services or of a combination of those things)—
  - “(i) which is received by or on behalf of the party by any person or body of persons involved in the administration of the affairs of the party; and
  - “(ii) which, either on its own or when aggregated with all other such donations made in the same year by the same person exceeds \$10,000 in sum or value (inclusive of goods and services tax); and
- “(b) includes, where goods or services are provided to the party under a contract at 90% or less of their reasonable market value, the amount of the difference between the contractual price of the goods or services and the reasonable market value of those goods or services; but

“(c) does not include the labour of any person which is provided to the party free of charge by that person; and

“(d) does not include any constituency candidate donation that is included in a return made by a constituency candidate under section 210

“**year** means a period of 12 months beginning on 1 January and ending with 31 December.

**“214G Return of party donations**

“(1) Every secretary of a political party registered under Part IV must ensure that the Commission receives by 30 April in each year—

“(a) a return (which must be on a form provided by the Electoral Commission) setting out—

“(i) the name and address of each person who made a party donation in the year ending with the immediately preceding 31 December and the amount of each such donation; and

“(ii) the amount of each anonymous donation made in the year ending with the immediately preceding 31 December (being a donation that, by virtue of paragraph (a)(ii) of the definition of party donation in section 214F, is a party donation); and

“(b) the auditor’s report on the return referred to in paragraph (a) (being the report obtained under section 214H).

“(2) Every secretary of a political party registered under Part IV must keep proper records of donations received by the party.

“(3) Every secretary of a political party registered under Part IV who fails, without reasonable excuse, to comply with subsection (1) or subsection (2) commits an offence and is liable on summary conviction to a fine not exceeding \$20,000.

“(4) Every secretary of a political party registered under Part IV who forwards to the Electoral Commission under subsection (1)(a) a return that is false in any material particular—

“(a) is, if the secretary forwards the return knowing that the return is false in any material particular, guilty of a corrupt practice and is liable on conviction on indictment to imprisonment for a term not exceeding 1 year or to a fine not exceeding \$20,000, or to both; and

- “(b) is, in any other case, guilty of an illegal practice and is liable on conviction on indictment to a fine not exceeding \$20,000, unless the secretary proves—
  - “(i) that he or she had no intention to mis-state or conceal the facts; and
  - “(ii) that he or she took all reasonable steps in the circumstances to ensure that the information in the return was accurate.
- “(5) Every person charged with an offence against subsection (4)(a) may be convicted of an offence against subsection (4)(b).
- “(6) Despite anything in subsection (1), where a secretary of a political party is required to make under that subsection a return of party donations that relates to the year in which the political party became registered under Part IV, that return must relate to the period beginning with the date of the registration of that political party under Part IV and ending with 31 December of that year.

**“214H Auditor’s report**

- “(1) Every secretary of a political party registered under Part IV must, before the Electoral Commission receives the return required by section 214G(1)(a), obtain from the auditor appointed under section 214D a report on the return.
- “(2) The auditor must state in the report whether or not, in the auditor’s opinion, the return fairly reflects the party donations received by the party.
- “(3) The auditor must make any examinations that the auditor considers necessary.
- “(4) The auditor must specify in the report any case in which—
  - “(a) the return does not, in the auditor’s opinion, fairly reflect the party donations received by the party;
  - “(b) the auditor has not received from the secretary of the party all the information that the auditor requires to carry out his or her duties;
  - “(c) proper records of party donations received by the party have not, in the auditor’s opinion, been kept by the secretary of the party.
- “(5) The auditor—



- “(a) must have access at all reasonable times to all records, documents, and accounts which relate to the party donations received by the party and which are held by the secretary of the party; and
- “(b) may require the secretary of the party to provide any information and explanations that, in the auditor’s opinion, may be necessary to enable the auditor to prepare the report.

**“214I Duties of Electoral Commission**

- “(1) It is the duty of the Electoral Commission to see that the provisions of section 214G(1) are complied with.
- “(2) If the Electoral Commission believes that any person has committed an offence against section 214G(3) or section 214G(4), the Electoral Commission must report the facts upon which that belief is based to the police.

**“214J Inspection of returns and audit reports**

- “(1) The Electoral Commission must, 3 working days after it receives any duly completed document specified in subsection (2), make the document available for public inspection, without payment, at any time between 9 am and 4 pm, on any day on which the office of the Electoral Commission is open.
- “(2) The documents referred to in subsection (1) are—
  - “(a) returns of election expenses and auditors’ reports received by the Electoral Commission under section 214C(1):
  - “(b) returns of constituency candidate election expenses received by the Electoral Commission under section 211(3)(a)(ii):
  - “(c) returns of party donations and auditors’ reports received by the Electoral Commission under section 214G(1).

*“General provisions relating to returns***“214K Obligation to file nil returns**

To avoid any doubt, the requirement to ensure that the Commission receives a return under section 214C or section 214G(1)(a) applies even though the person required to ensure

that the return is received considers that there is no relevant information to disclose, in which case the person must ensure that the Electoral Commission receives a nil return.

**“214L Obligation to retain records necessary to verify returns**

“(1) For the purposes of this section, the person responsible for submitting a return is as follows:

“(a) in the case of a return required by section 210 to be transmitted by a constituency candidate, the constituency candidate:

“(b) in the case of a return of a party’s election expenses required by section 214C, the secretary of the party:

“(c) in the case of a return required by section 214G, the secretary of the party.

“(2) The person responsible for submitting a return of the kind specified in any of paragraphs (a) to (c) of subsection (1) must take all reasonable steps to ensure that all records, documents, and accounts that are reasonably necessary to enable the return to be verified are retained until the expiry of the period within which a prosecution may be commenced under this Act in relation to the return or in relation to any matter to which the return relates.

“(3) Every person commits an offence who, being a person responsible for submitting a return, fails, without reasonable excuse, to comply with the requirements of subsection (2).

“(4) Every person who commits an offence against subsection (3) is liable on summary conviction to a fine not exceeding \$20,000.”

**96 Punishment for corrupt or illegal practice**

Section 224(2) of the principal Act is amended by omitting the expression “214I”, and substituting the expression “214G”.

## **Part 4**

### **Other amendments to principal Act**

**97 New section 263B inserted**

The principal Act is amended by inserting, after section 263A, the following section:

**“263B Disclosure of personal information for enrolment purposes**

- “(1) The purpose of this section is to facilitate the disclosure of information described in subsection (2) by a specified agency to the Chief Registrar only for the purposes of—
- “(a) identifying persons who are qualified to apply to register as an elector but who have not yet registered; and
  - “(b) encouraging those persons identified to register as an elector; and
  - “(c) updating and ensuring the accuracy of the particulars of persons whose names are on the roll.
- “(2) The information referred to in subsection (1) is the following information relating to any person of or over the age of 17 years:
- “(a) the person’s full name;
  - “(b) the person’s date of birth;
  - “(c) the person’s address of residence (if known);
  - “(d) the person’s postal address (if known and if different from the address of residence in paragraph (c));
  - “(e) the person’s preferred honorific (if known);
  - “(f) the date at which the information in paragraphs (a) to (e) held by the agency was last provided to the agency.
- “(3) For the purposes of this section, a **specified agency** means—
- “(a) the department for the time being responsible for the administration of the Social Security Act 1964; and
  - “(b) the Ministry of Transport; and
  - “(c) the Land Transport Safety Authority; and
  - “(d) the Department of Internal Affairs.
- “(4) For the purposes of this section, any officer or employee or agent of a specified agency, authorised by the chief executive of that agency, may from time to time, at the request of the Chief Registrar, supply to the Chief Registrar any of the information described in subsection (2) held by that agency,—
- “(a) in the case of the department for the time being responsible for the administration of the Social Security Act 1964, in relation to any—
    - “(i) beneficiary; or
    - “(ii) student; or

- “(iii) borrower (as that term is defined in section 2 of the Student Loan Scheme Act 1992):
- “(b) in the case of the Ministry of Transport, in relation to motor vehicle registration:
- “(c) in the case of the Land Transport Safety Authority, in relation to driver licences:
- “(d) in the case of the Department of Internal Affairs, in relation to persons who obtain New Zealand citizenship under the Citizenship Act 1977.
- “(5) If, in relation to any person, information is supplied to the Chief Registrar under subsection (4), the Chief Registrar may cause a comparison of that information to be made with any information that is held by the Chief Registrar and that relates to that person.”

## **98 Regulations**

Section 267 of the principal Act is amended by repealing paragraphs (b) and (c), and substituting the following paragraphs:

- “(b) prescribing fees, or a scale of fees, for the supply of computer-compiled lists and electronic storage media by the Chief Registrar to any person under section 114, and for the giving of remote access by electronic means under that section:
- “(c) prescribing criteria, in addition to those specified in section 111E(3)(a) to (d), of which the Minister of Justice and the Minister of Maori Affairs must be satisfied in relation to a particular person or body of persons before designating it under section 111E:
- “(ca) defining **iwi organisation** and **other Maori organisation** for the purposes of sections 111A to 111F:.”

## **Part 5**

### **Miscellaneous provisions**

#### **99 Schedule 1 of principal Act amended**

Schedule 1 of the principal Act is amended by adding the following clause:

**“14 Commission may state case for opinion of High Court**

- “(1) The Commission may, at any time, state a case for the opinion of the High Court on any question of law arising in any matter before it.
- “(2) The High Court may order the removal into the Court of Appeal of any case stated for the opinion of the High Court under this section.
- “(3) The High Court or the Court of Appeal, as the case may be, must hear and determine the question, and must remit the case with its opinion to the Commission.”

**100 Schedule 2 of principal Act amended**

- (1) Schedule 2 of the principal Act is amended by repealing form 1, and substituting the form 1 set out in Schedule 1 of this Act.
- (2) Schedule 2 of the principal Act is amended by repealing form 2.
- (3) Schedule 2 of the principal Act is amended by repealing form 3, and substituting the form 3 set out in Schedule 1 of this Act.
- (4) Schedule 2 of the principal Act is amended by repealing form 6, and substituting the form 6 set out in Schedule 1 of this Act.
- (5) Schedule 2 of the principal Act is amended by omitting from form 7 the words “Dated this day of 19. E.F., Speaker of the House of Representatives.”, and substituting the words “Signed by Her Excellency, the Governor-General at place on date. CD, Minister of Justice”.
- (6) Schedule 2 of the principal Act is amended by repealing forms 8 and 9.
- (7) Schedule 2 of the principal Act is amended by omitting from form 14 the words “Returning Officer”, and substituting the words “Chief Electoral Officer”.
- (8) Schedule 2 of the principal Act is amended by repealing forms 16 and 17.

**101 Consequential amendments and repeals**

- (1) The principal Act is amended in the manner indicated in Schedule 2.
- (2) The Citizens Initiated Referenda Act 1993 is amended in the manner indicated in Schedule 3.

- (3) The enactments in Schedule 4 are amended in the manner set out in that schedule.
- (4) Sections 26, 36, 39(1), 42, 94, and 97 of the Electoral Amendment Act (No 2) 1995 are consequentially repealed.
- (5) The Referenda (Postal Voting) Act 2000 is consequentially amended by repealing sections 94, 95, and 102(1) and Schedule 3.

#### **102 Consequential amendment to Goods and Services Tax Act 1985**

- (1) Section 5 of the Goods and Services Tax Act 1985 is consequentially amended by repealing subsection (6C), and substituting the following subsections:
  - “(6C) For the purposes of this Act, the amount of any deposit specified in, and paid under, section 127A or section 144 or section 146F of the Electoral Act 1993 is deemed to be consideration (inclusive of tax) for a supply of services by the department of State that, with the authority of the Prime Minister, is for the time being responsible for the administration of the Electoral Act 1993 in the course or furtherance of a taxable activity, and that supply is deemed to take place when and if the deposit is forfeited under section 127A(3) or section 144(3) or section 146F(3) of that Act.
  - “(6CA) For the purposes of this Act, the amount of any deposit referred to in, and paid under, section 55 of the Local Electoral Act 2001 is deemed to be consideration (inclusive of tax) for a supply of services by the relevant local authority in the course or furtherance of a taxable activity, and that supply is deemed to take place when and if the deposit is forfeited under section 59 of that Act.”
- (2) The following enactments are consequentially repealed:
  - (a) section 3 of the Goods and Services Tax Amendment Act (No 3) 1988:
  - (b) paragraphs (c) and (d) of section 3(2) of the Goods and Services Tax Amendment Act 1995:
  - (c) so much of Schedule 2 of the Department of Justice (Restructuring) Act 1995 as relates to the Goods and Services Tax Act 1985:

- (d) so much of Schedule 3 of the Local Electoral Act 2001 as relates to the Goods and Services Tax Act 1985.

**103 Transitional provision relating to pending applications for registration of political parties and party logos**

- (1) If, on or after the commencement of section 13 or, as the case requires, section 14, an application made before that commencement under section 63 or section 63A of the principal Act is to be determined by the Electoral Commission, the Electoral Commission must deal with that application as if section 13 or, as the case requires, section 14 had not been passed.
- (2) If the Electoral Commission registers, after the commencement of section 13, a political party on the basis of an application received before the commencement of that section, the secretary of that party must supply to the Electoral Commission, within 1 month after the date of that registration, the name and address of the person who is the party's auditor, and that person's signed consent to being named as the party's auditor.

**104 Transitional provision relating to work of Representation Commission following 2001 census**

To avoid any doubt, nothing in this Act affects the work of the Representation Commission in fixing, following the report in 2001 of the Government Statistician under section 35(6) of the principal Act on the results of the census and the calculation of the Maori electoral population, the boundaries of the General electoral districts and the Maori electoral districts; and that work must proceed in all respects as if this Act had not been passed.

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**Schedule 1**  
**New forms 1, 3, and 6**

s 100

Form 1

ss 26, 159(3), 160(4),  
172(5), 174F(3), 175(3),  
183(4)

**Declaration by Returning Officer or polling  
place official or electoral official or scrutineer**

I, AB, [*insert place of abode and description*], solemnly and sincerely declare that I will well and truly serve in the office of—

\*Returning

Officer of polling place

Electoral

Official for a candidate or a political

party in the poll in the [*insert district*] Electoral District, and that I will not do anything forbidden by section 203<sup>1</sup> of the Electoral Act 1993.

Declared at this }  
day of 20 } AB  
before }

me:.....

CD

\*Justice of the Peace

\*Solicitor

\*Returning

Officer of polling place

Issuing

Officer of

Registrar of Electors Electoral

Officer whichever do not

apply. Section 203 of the Electoral Act 1993 is printed on the back of this form and must be read by or to the person making the declaration.

**Note:**

1. Declarations by Returning Officers must be made before a Justice of the Peace or a Solicitor.
2. Managers of polling places and issuing officers may take declarations only under sections 159(3) and 160(4) of the Electoral Act 1993.
3. Registrars of Electors may take declarations only under section 172(5) of the Electoral Act 1993.
4. The Chief Electoral Officer may take declarations only under sections 175(3) and 183(4) of the Electoral Act 1993.



Form 3  
Writ for general election

s 125

Governor-General

To the Chief Electoral Officer:

Pursuant to section 125 of the Electoral Act 1993, I authorise and require you to make all necessary arrangements for the conduct of a general election.

The last day and time for the nomination of constituency candidates is noon on [date]

Polling day is Saturday, [date].

You are required to endorse on this writ the name of every constituency candidate who is elected, and then return the writ to the Clerk of the House of Representatives on or before [date].

Signed by Her Excellency the Governor-General at [place] on [date].

CD,  
Minister of Justice

Form 6  
Writ for by-election

s 129(2)(c)

To the Chief Electoral Officer

Pursuant to section 129 of the Electoral Act 1993, I authorise and require you to make all necessary arrangements for the conduct of a by-election in the [insert district] electoral district.

The last day and time for the nomination of constituency candidates is noon on [date].

Polling day is Saturday, [date].

You are required to endorse on this writ the name of the constituency candidate who is elected, and then return the writ to the Clerk of the House of Representatives on or before [date].

Signed by Her Excellency, the Governor-General at [place] on [date].

CD,  
Minister of Justice

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**Schedule 2**  
**Consequential amendments to principal**  
**Act**

s 101(1)

**Section 26**

Omit the words “and every Deputy Returning Officer”.

**Section 61**

Omit from subsection (1)(f) the words “Deputy Returning Officer” and substitute the words “issuing officer”.

**Section 64**

Omit from subsection (1) the word “writs” in both places where it appears and substitute in each case the words “the writ”.

**Section 88**

Omit from subsections (1) and (3) the words “for an election” and substitute in each case the words “requiring the conduct of an election”.

**Section 127**

Omit from subsections (3) and (8) the word “writs” and substitute in each case the word “writ”.

**Heading before section 139**

Omit the word “*Writs*” and substitute the word “*writ*”.

**Section 161**

Omit from subsection (2) the word “booth” and substitute the words “polling place”.

**Section 163**

Omit from subsections (1), (3), and (4) the words “Deputy Returning Officer” and substitute in each case the words “manager of the polling place”.

**Heading to section 165**

Omit from the heading to this section the word “booth” and substitute the words “polling place”.

Omit from subsection (1) the word “booth” and substitute the word “place”.

Omit from subsection (1) the words “Deputy Returning Officer or poll clerk” and substitute the words “issuing officer”.

Omit from subsection (2) the words “booth by order of the Deputy Returning Officer” and substitute the words “polling place by order of the manager”.

### **Section 166**

Omit from subsections (1), (2), and (4) the words “Deputy Returning Officer” and substitute in each case the words “issuing officer”.

### **Section 169**

Omit the words “Deputy Returning Officer” wherever they appear and substitute in each case the words “issuing officer”.

### **Section 170**

Omit from subsection (2) the words “Deputy Returning Officer” wherever they occur and substitute in each case the words “issuing officer”.

### **Section 171**

Omit from the proviso the words “Deputy Returning Officer” and substitute the words “issuing officer”.

### **Section 172**

Omit from subsection (3A) the words “subsections (7) and (8) of section 127 or subsections (3A) and (4) of section 143 of this Act” and substitute the words “section 127(7) and (8) or section 143(3A) and (4) or section 146E(4) and (5)”.

Omit from subsection (5) the words “or the Deputy Returning Officer”.

### **Section 180**

Omit from subsection (10) the words “Returning Officer” and substitute the words “Chief Electoral Officer”.

**Section 184**

Omit from subsection (2) the words “Returning Officer” in the second place where they occur and substitute the words “Chief Electoral Officer”.

**Section 190**

Omit from subsections (1) and (2) the word “booth” and substitute in each case the words “polling place”.

Omit from subsection (3) the words “a Deputy Returning Officer” and substitute the words “an issuing officer”.

**Section 191**

Omit from subsection (1) the words “certificates required by section 179(4)” and substitute the words “information required by section 179(1)”.

Omit from subsection (2) the words “the certificates” and substitute the words “the information given under section 179(1)(a)”.

Omit from subsections (4) and (8) the words “a writ” and substitute in each case the words “the writ”.

**Section 192**

Omit from subsection (2)(a) the words “a writ” and substitute the words “the writ”.

**Section 193**

Omit from subsection (3) the words “a writ” and substitute the words “the writ”.

**Section 195**

Omit from subsection (1) the word “Deputy”.

**Section 197**

Omit from subsection (1)(a) the word “booth” in both places where it appears and substitute in each case the word “place”.

Omit from subsection (1)(i) the word “booth” and substitute the word “place”.

Omit from subsection (2)(b) the words “Deputy Returning Officer” and substitute the words “manager of the polling place”.

### **Section 201**

Omit from subsection (1)(d) the word “booth” and substitute the word “place”.

Repeal subsection (2)(a) and substitute:

“(a) if a Returning Officer or a polling place official in attendance at a polling place, to imprisonment for a term not exceeding 2 years:.”

### **Section 203**

Omit from subsection (1) the words “official, clerk, scrutineer, interpreter” and substitute the words “electoral official, polling place official, scrutineer”.

Repeal subsection (2)(b) and (c) and substitute:

“(b) attempt to obtain in a polling place information as to the candidate for whom or the party for which a voter in the polling place is about to vote or has voted:

“(c) communicate at any time to any person any information obtained in a polling place as to the candidate for whom or the party for which any voter at the polling place is about to vote or has voted, or as to the consecutive number on the ballot paper given to any voter at the polling place.”

### **Section 214L**

Omit from paragraph (b) the expression “section 212(1)(b)” and substitute the expression “section 211(3)(a)(ii)”.

### **Section 231**

Omit from subsection (1) the words “Returning Officer” and substitute the words “Chief Electoral Officer”.

**Schedule 3**  
**Consequential amendments to Citizens**  
**Initiated Referenda Act 1993**

s 101(2)

**Section 2**

Insert, in its appropriate alphabetical order:

**“Chief Electoral Officer—**

- “(a)** has the same meaning as in section 3(1) of the Electoral Act 1993; and
- “(b)** in relation to an indicative referendum conducted by postal voting, also has the same meaning as that given to the term **Returning Officer** by section 3(1) of the Referenda (Postal Voting) Act 2000.”

Repeal the definition of **Clerk of the Writs**.

**Section 22AA**

Omit from subsection (7) the expression “section 126” and substitute the expression “section 125”.

**Section 22AB**

Omit from subsection (8) the expression “section 126” and substitute the expression “section 125”.

**Section 22A**

Repeal subsection (1) and substitute:

- “(1)** The promoter of an indicative referendum petition may withdraw that petition by delivering to the Clerk of the House of Representatives a notice in writing withdrawing that petition, before the Governor-General has, under section 26 or section 26A, as the case may require, issued a writ for the holding of the indicative referendum.”

Omit from subsection (3)(a) the words “Clerk of the Writs” and substitute the words “Governor-General”.

**Section 24**

Omit subsection (5) and substitute:

“(5) However, the sections of the Electoral Act 1993 that do not apply to an indicative referendum are sections 4 to 15, 28 to 38, 41 to 45(8), 46 to 59, 62 to 71, 113, 125 to 140, 143 to 146L, 148 to 154, 157(2), 160(1), (3), (4), and (8), 165(1)(b), 168(1) to (3), 170(6), 174(4), 179(1)(a), 180(1) to (5), 180(7)(e), 181, 183, 185, 186, 191 to 193A, 196A, 197 to 199, 203, 204, 206 to 214L, 221, 221A, 229 to 231, 236(3), 236(8), 237 to 239, 243 to 246, 256(1)(c), 256(2), 256(3), 258 to 262, 264, 267, 268, and 269 to 284.”

**Section 24A**

Omit from subsection (3) the expression “179(4)” and substitute the expression “179(1)(a)”.

**Sections 25 and 25A**

Repeal.

**Sections 26 to 26C**

Repeal and substitute:

**“26 Writ for indicative referendum not conducted by postal voting**

“(1) This section applies when the Governor-General makes an Order in Council, under section 22(2)(a) or section 22AA(7), appointing the date on which an indicative referendum is to be held under this Act.

“(2) The Governor-General must issue a writ in form 2 of the Schedule to the Chief Electoral Officer requiring the Chief Electoral Officer to make all necessary arrangements for the conduct of the indicative referendum.

“(3) If the indicative referendum is to be held on the polling day for a general election, the writ must be issued on the day on which the writ for the general election is issued.

- “(4) If the indicative referendum is to be held on another day, the writ must be issued at least 28 days before the day on which the indicative referendum is to be held.
- “(5) The latest day for the return of the writ must be stated in the writ.
- “(6) The latest day for the return of the writ is,—
  - “(a) if the indicative referendum is to be held on the polling day for a general election, the 60th day after the issue of the writ:
  - “(b) if the indicative referendum is to be held on another day, the 50th day after the issue of the writ.

**“26A Writ for indicative referendum conducted by postal voting**

- “(1) This section applies when the Governor-General makes an Order in Council in accordance with section 22(2)(b) specifying the indicative referendum as a referendum that must be conducted by postal voting.
- “(2) The Governor-General must issue a writ in form 2A of the Schedule to the Chief Electoral Officer requiring the Chief Electoral Officer to conduct the indicative referendum.
- “(3) If the voting period for the indicative referendum ends on the polling day for a general election, the writ must be issued on the day on which the writ for the general election is issued.
- “(4) If the voting period for the indicative referendum ends on another day, the writ must be issued at least 28 days before the commencement of that period.
- “(5) The latest day for the return of the writ must be stated in the writ.
- “(6) The latest day for the return of the writ is,—
  - “(a) if the voting period for the indicative referendum ends on the polling day for a general election, the 60th day after the issue of the writ:
  - “(b) if the voting period for the indicative referendum ends on another day, the 50th day after the issue of the writ.



**“26B Notice of issue of writ**

- “(1) Immediately after receiving a writ for an indicative referendum, the Chief Electoral Officer must notify the following persons of the issue and the contents of the writ:
- “(a) the Clerk of the House of Representatives:
  - “(b) the Chief Registrar of Electors:
  - “(c) the promoter of the indicative referendum petition seeking the holding of that indicative referendum.
- “(2) If the indicative referendum is not to be conducted by postal voting, the Chief Electoral Officer must also notify the Returning Officer for each electoral district.”

**Section 27**

Insert in paragraphs (a) and (b) of subsection (2), in each case after the words “the taking of the indicative referendum”, the words “or on or after the day on which the voting period for the indicative referendum period ends”.

**Section 29**

Omit the words “one scrutineer to act at each polling booth” and substitute the words “1 or more scrutineers to act at each polling place”.

**Section 30**

Omit the words “one scrutineer to act at each such polling booth” and substitute the words “1 or more scrutineers to act at each polling place”.

**Section 33**

Omit the word “booth” and substitute the word “place”.

**Section 36**

Add:

- “(3) The number of scrutineers for each answer who may be present in a polling place may not exceed the number of issuing officers designated for the polling place.”

**Section 38**

Omit the words “the Returning Officer in accordance with section 179(1)” and substitute the words “the Chief Electoral Officer in accordance with section 179(2)”.

**Sections 39 and 40**

Repeal and substitute:

**“39 Endorsement and return of writ**

- “(1) The Chief Electoral Officer must—
- “(a) endorse on the writ—
    - “(i) the total number of valid votes recorded for each of the 2 answers to the precise question; and
    - “(ii) if the writ is in form 2, the total number of valid votes recorded in each electoral district for each of the 2 answers to the precise question; and
    - “(iii) the date of the endorsement; and
  - “(b) sign the writ; and
  - “(c) immediately after endorsing and signing the writ, transmit the writ to the Clerk of the House of Representatives.
- “(2) The date endorsed on the writ under subsection (1) is the day of the return of the writ.
- “(3) The writ must be returned within the time specified in the writ for its return.
- “(4) If any application for a recount of the votes has been made, the Chief Electoral Officer must postpone the return of the writ until the completion of every recount.
- “(5) If, at any time before the expiry of the time for an application for a recount of the votes, it appears to the Chief Electoral Officer that such an application may be made, the Chief Electoral Officer may postpone the return of the writ until that expiry.
- “(6) Subsections (4) and (5) prevail over subsections (1) to (3).

**“40 Declaration of result**

- “(1) This section applies when the Governor-General makes an Order in Council, under section 22(2)(a) or section 22AA(7),

appointing the date on which an indicative referendum is to be held under this Act.

- “(2) The Chief Electoral Officer—
- “(a) must notify in the *Gazette*—
    - “(i) the total number of valid votes recorded for each of the 2 answers to the precise question; and
    - “(ii) the total number of valid votes recorded in each electoral district for each of the 2 answers to the precise question; and
  - “(b) must give to the Minister of Justice written notice of the numbers notified in the *Gazette* under paragraph (a).
- “(3) The Minister of Justice must, as soon as practicable, present to the House of Representatives a copy of the notice given to the Minister of Justice under subsection (2)(b).”

#### Section 40A

Repeal subsection (2)(b) and (c) and substitute:

- “(b) attempt to obtain in a polling place information as to the answer for which a voter in the polling place is about to vote or has voted:
- “(c) communicate at any time to any person any information obtained in a polling place as to the answer for which any voter at the polling place is about to vote or has voted, or as to the consecutive number on the ballot paper given to any voter at the polling place.”

#### Section 43

Repeal the definition of **appropriate official** in subsection (1).

Omit from subsection (1A) the words “appropriate official” and substitute the words “Chief Electoral Officer”.

Omit from subsection (1A)(b) the expression “section 40(3)(a)” and substitute the expression “section 40(2)”.

#### Section 44

Repeal subsection (3).

**Section 45**

Repeal subsection (3).

**Section 51B**

Omit the words “the Returning Officer has declared the result of the indicative referendum under section 179(1)” and substitute the words “the Chief Electoral Officer has declared the result of the referendum under section 179(2)”.

**Section 51G**

Omit from subsections (2) and (3) the words “Returning Officer” wherever they occur and substitute in each case the words “Chief Electoral Officer”.

**Section 52**

Omit from subsection (1)(a) the word “booth” in both places where it occurs and substitute in each case the word “place”.

Omit from subsection (1)(j) the word “booth” and substitute the word “place”.

**Section 54**

Omit from subsection (1)(a) the word “booth” and substitute the word “place”.

Omit from subsection (1)(a) the words “Deputy Returning Officer” and substitute the words “issuing officer”.

**Schedule: form 1**

Repeal.

**Schedule: forms 2 and 2A**

Repeal and substitute:

s 26

Form 2

Writ for indicative referendum to be taken by electoral poll  
Governor-General

To the Chief Electoral Officer:

Pursuant to section 26 of the Citizens Initiated Referenda Act 1993, I authorise and require you to make all necessary arrangements for the conduct of an indicative referendum on the following question, namely, [*specify the question*].

The indicative referendum is to be taken on Saturday, [*date*].

You are required—

- (a) to endorse on the writ—
  - (i) the total number of valid votes recorded for each of the 2 answers to the question; and
  - (ii) the total number of valid votes recorded in each electoral each of the 2 answers to the question; and then
- (b) to return the writ to the Clerk of the House of Representatives on or before [*date*].

Signed by Her Excellency the Governor-General at [*place*] on [*date*].

CD,

Minister of Justice

Form 2A

s 26A

Writ for indicative referendum to be conducted by postal voting  
Governor-General

To the Chief Electoral Officer:

Pursuant to section 26A of the Citizens Initiated Referenda Act 1993, I authorise and require you to conduct, by postal voting, an indicative referendum on the following question, namely, [*specify the question*].

The voting period for the indicative referendum commences on [*date*] and closes at 7pm on [*date*].

You are required—

- (a) to endorse on the writ the total number of valid votes recorded for each of the 2 answers to the question; and
- (b) to return the writ to the Clerk of the House of Representatives on or before [*date*].

Signed by Her Excellency the Governor-General at [*place*] on [*date*].

CD,

Minister of Justice

**Schedule: form 3**

Omit the words “one scrutineer to act at each polling booth” and substitute the words “1 or more scrutineers to act at each polling place”.

**Schedule: form 4**

Omit the words “one scrutineer to act at each polling booth” and substitute the words “1 or more scrutineers to act at each polling place”.

**Schedule: form 5**

Omit the words “polling booths” and substitute the words “polling places”.

Omit the words “Polling Booth” and substitute the words “Polling Place”.

Omit the words “*Name of polling booth*” and substitute the words “*Name of polling place*”.

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**Schedule 4**

s 101(3)

**Amendments to other enactments****Privacy Act 1993 (1993 No 28)**

Insert in the definition of **specified agency** in section 97, after paragraph (g):

“(ga) the Ministry of Transport:

“(gb) the Land Transport Safety Authority:

“(gc) the Department of Internal Affairs:.”

Omit from Schedule 3 the item relating to the Electoral Act 1993, and substitute:

Electoral Act 1993

sections 263A and 263B.

**Referenda (Postal Voting) Act 2000 (2000 No 48)**

Omit from paragraph (b) of the definition of **electoral roll** in section 3(1) the expression “83(6)” and substitute the expression “83A and 83D”.

Omit section 19(c) and substitute:

“(c) section 114 (supply of electronic information to candidates, political parties, and members of Parliament).”

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### **Legislative history**

12 March 2001	Introduction (Bill 110-1)
15 March 2001	First reading and referral to Justice and Electoral Committee
28 September 2001	Reported from Justice and Electoral Committee (Bill 110-2)
13 November 2001	Second reading
14, 15, 27 November 2001	Committee of the whole House (Bill 110-3)
29 November 2001, 19 February 2002	Recommitted to committee of the whole House (Bill 110-4)
26 February 2002	Third reading
27 February 2002	Royal assent

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